Calendar No. 588

99TH CONGRESS *2d Session*	SENATE	REPORT 99-269

TO PROVIDE FOR ADDITIONAL BANKRUPTCY JUDGES

REPORT

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ON

S. 1923, as amended

MARCH 26 (legislative day, MARCH 18), 1986.—Ordered to be printed

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CONTENTS

	Page
I. Purpose	1
II. Background	1
III. Statement	2
IV. Committee Amendments	4
V. Section-by-Section	6
VI. Committee Action	6
VII. Regulatory Impact Statement	6
VIII. Cost Estimate	6
IX. Changes in Existing Law	8
Appendix:	
Material in support of the following jurisdictions:	
Central District of California	11
Southern District of California	13
Northern District of Indiana	17
District of Minnesota	18
Western District of North Carolina	37
Northern District of Oklahoma	39
District of Oregon	52
Western District of Pennsylvania	76
Southern District of Texas	78
Eastern District of Wisconsin	83
Eastern District of Virginia	89

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Mr. THURMOND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1923]

The Committee on the Judiciary, to which was referred the bill (S. 1923) to provide for additional bankruptcy judges, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

I. PURPOSE

The purpose of the legislation is to provide for additional bankruptcy judgeships in certain Federal territorial districts.

II. BACKGROUND

S. 1923 was introduced by Senator Strom Thurmond (R-SC) on December 11, 1985. It reflected the recommendation of the Judicial Conference of the United States that 48 new bankruptcy judgeship positions be created.

The Judicial Conference of the United States is the highest administrative and policy formulating unit within the judicial branch. It is charged with the responsibility to conduct comprehensive surveys of the needs of the courts of the United States and to submit to the Congress recommendations for legislation [28 U.S.C. 5331]. Until 1984, the Conference was authorized to set the number of bankruptcy judgeships for each district directly, subject to Congressional oversight and appropriations processes. In the Bankruptcy Amendments and Federal Judgeships Act of 1984 [Public Law No. 98-353; 98 Stat. 333], the Congress, for the first time, designat-

ed the number of bankruptcy judgeships for each judicial district by enactment of positive law.

The 1984 Act codified only the number of judgeships then authorized, a level that has been maintained since 1978. There are currently 232 authorized, full-time bankruptcy judges.

In 1985, the Judicial Conference concluded a study on the need for additional bankruptcy judges. The Conference found that during the last six years, bankruptcy filings had increased dramatically, from approximately 277,000 in 1980, to approximately 365,000 in 1985. Filings have continued to increase over the past eight months since the completion of the statistical gathering year for the Administrative Office.

In assessing the need for additional bankruptcy judgeships, the Conference recognized the necessity to develop a general, nationally uniform and objective standard against which consideration of the need for additional bankruptcy judgeships for individual districts could be measured. The Conference also recognized that assessment of judgeship needs is a very sophisticated process, involving subjective factors in addition to objective criteria.

The Conference adopted a basic threshold test of 1,800–2,000 total filings and 100 chapter 11 filings per judgeship as generally constituting sufficient business in a district to justify an additional position. On the basis of a standard work-year of 2,087 hours and 251 days, the threshold test would require a judge to consider an average of one petition per hour and two chapter 11 petitions each week. In applying that criteria, the Conference gave presumptive validity to requests where both prongs of the threshold were met. If a district met only one part of the test, the filings and other statistics and special factors advanced by the court in support of the request were assessed to determine whether, taken as a whole, the caseload was equivalent to the threshold standard. Finally, if a district met neither prong of the threshold test, the Conference required a particularly strong showing of special circumstances justifying the additional position.

Based on data detailing statistics on the caseloads in each district, the Judicial Conference recommended the authorization of 48 additional bankruptcy judgeships. S. 1923, as originally introduced, reflects that recommendation. A hearing on the bill, at which time the Judiciary Committee heard from the Chairman of the Committee on the Administration of the Bankruptcy System of the judicial Conference and from a bankruptcy judge, was held on December 17, 1985.

III. Statement

A. Bankruptcy Judgeships

Bankruptcy filings throughout the United States have greatly increased over the last six years. Many districts have been overwhelmed by the volume and complexity of the bankruptcy cases now pending in those districts. Relief in some form is essential for these districts. The Committee believes that relief does not necessarily require the creation of additional judgeships. Other less costly alternatives are available. Among these alternatives are

changes to the substantive law of bankruptcy, additional support personnel, and better case management on the part of the bankruptcy judges, the bankruptcy clerks and the bar. But if a district is operating at its optimum level having attempted reasonable combinations of the above remedies, then the authorization of additional bankruptcy judicial personnel must be done.

Under current law, the Judicial Conference and the circuit judicial council of the district or districts affected many designate, on a standing basis, a bankruptcy judge to exercise concurrent jurisdiction in an adjacent or nearby district. (28 U.S.C. 152(d)).

In making recommendations for additional bankruptcy judgeships to Congress, the Judicial Conference should ascertain whether there are underutilized positions in adjacent or nearby districts to those in which the caseloads of judges have greatly increased. Where such a district is identified, the Judicial Conference and the circuit judicial council should act to accommodate uneven caseloads among the bankruptcy judges of the circuit, particularly if the district affected is in the same State. The Committee is cognizant of the added burden this might place on some bankruptcy judges who will be required to travel beyond their home districts. Nevertheless, this must be done if it is the best and least costly alternative available to provide adequate judicial service to the bankruptcy court system. The Conference and the councils have adequate means at their disposal to make judges perform the tasks required; it is the strong feeling of the Committee that these methods should be utilized.

Further, in districts in which the caseload is low, the Administrative Office should recommend to the Congress that the number of bankruptcy judges should be reduced proportionately. In these days of budgetary restraint, the Congress and the Administrative Office should be working to provide a legal system that operates efficiently and expeditiously at the lowest possible cost.

B. COMMENTS ON PLACE OF HOLDING DISTRICT COURT

28 U.S.C. §118(c) authorizes the establishment in Johnstown, Pennsylvania, of a place of holding court for the U.S. District Court for the Western District of Pennsylvania. Although this authorization was enacted in 1978, it has never been implemented. In accordance with directions contained in Senate Report 99–82 on the fiscal year 85 Supplemental Appropriations Act, the General Services Administration, along with the Administrative Office of the U.S. Courts, conducted a study regarding the creation of such a facility in Johnstown, Pennsylvania. Based upon this study, the annual civil caseload in the Johnstown area approximated 300 cases per year, which is comparable to the caseloads for many currently active places of holding court throughout the country. The Committee notes that the proposal to establish court facilities in Johnstown has been actively supported by the bar associations of four counties to be served by the new facility: Blair County, Somerset County, Bedford County, and Cambria County. It is therefore the conclusion of this Committee that the Western District of Pennsylvania should establish and maintain Johnstown, Pennsylvania as a place of holding court.

IV. Committee Amendments

Both prior to and at the executive meeting of the Senate Committee on the Judiciary on February 20, 1986, several Senators voiced concerns regarding the criteria used by the Judicial Conference in determining the need for an additional judgeship. The statistical standards used by the Conference, total filings and the number of cases filed under chapter II, focused solely on input data, i.e., items going into the bankruptcy system. No objective criteria were used to measure outflow, or what came out of the bankruptcy system. The Committee believes that the latter criteria should be included in any consideration used to recommend additional judgeships. The Committee believes that the filing figures alone may not accurately represent the true "volume" of workload; many of these cases may require little or no judicial review or effort. The Committee is also cautious about how to interpret the total filings figures compiled by the Administrative Office. To assist the Committee in future years to distinguish those cases in which there has been no judicial activity for a considerable period of time—for example, 18 months—the Administrative Office might create a separate category from the total filings number. The Committee would also welcome suggestions from the judicial branch as to how to handle properly those cases in which there is no need for further judicial involvement or activity. The Committee believes the courts now have the power to deal with these cases in a manner that will result in their being brought to a proper and timely conclusion or being dismissed. The Committee urges the Courts to exercise these powers.

For example, chapter 7 consumer cases as a general rule are routine and present no particular problem. Other than possibly at a discharge hearing, a bankruptcy judge may not even see a chapter 7 petitioner. Few matters, nationwide, are litigated in chapter 7 cases. The majority of chapter 7 cases are no asset (90%) and these debtors receive their discharges by default with no creditor or judicial activity involved.

Judicial activity in chapter 13 cases may also be light. In many districts the chapter 13 standing trustees handle the entire case and the judicial involvement is limited to approving the recommendation of the standing trustee.

It is in chapter 11 cases that there is generally substantial judicial activity. Chapter 11 cases are complex, and involve very large amounts of money and large numbers of creditors. Often there are hundreds of proceedings or contested matters associated with a single case. However, even in chapter 11 cases, the act of filing does not necessarily mean that judicial work is inevitable. The Committee is aware that in a number of cases the intent of the bankruptcy code is frustrated by petitioners who either make "one page filings" with no intent of ever pursuing their case, or who are not business petitioners and who file a chapter 11 case solely to bring about the injunctive relief provisions of the code against creditors. If the amounts of money involved do not merit actively challenging the debtor, the creditors do not throw good money after bad and the petitioners succeed in receiving a permanent injunction against their creditors for the price of a $200 filing fee.

Further, in the course of its deliberation, the Committee noted that several of the judgeships proposed by the Judicial Conference met neither of the two prongs of the Administrative Office standard. While unique circumstances should certainly be considered in assessing need, the Committee thought it difficult to justify authorizing a position based solely on these subjective criteria. Consequently, Chairman Thrumond created an ad hoc subcommittee, composed of Senator Orrin G. Hatch (R-UT) as Chairman, Senator Mitch McConnell (R-KY) and Senator Dennis DeConcini (D-AZ), to reexamine the original list proposed by the Administrative Office. The Subcommittee was charged with reviewing each recommendation to ensure that each proposed judgeship met the criteria used by the Judicial Conference. Further, after seeking the advice of a number of leading and diverse figures associated with the bankruptcy practice, the Subcommittee developed additional criteria from the raw data compiled by the Administrative Office. Taken together, these criteria would constitute an objective measurement standard to reflect better the actual workload of a bankruptcy judge and the need for bankruptcy judgeships.

Consequently, the Subcommittee reviewed and applied the following standards to the judgeships proposed in S. 1923:

(1) total filings per judge;

(2) total chapter 11 filings per judge;

(3) total adversary proceedings terminated with court action per judgeship;

(4) total adversary proceedings terminated without court action per judgeship;

(5) modified total filings (chapter 7 asset cases, chapter 11 asset cases, plus 10% of chapter 13 filings);

(6) unique and/or extenuating factors applicable to particular jurisdictions (complexity of caseload, singular but massive cases, travel distances); and

(7) availability of neighboring underutilized judges.

The Subcommittee noted that while "adversary proceedings" is one measure by which bankruptcy caseloads can be determined, it is not the most reliable test. The Subcommittee strongly recommends that the Administrative Office add the category "contested proceedings" to its chart and use that information in assessing the need for additional bankruptcy judgeships in future recommendations. Other data which the Subcommittee feels would be relevant in determining the best measures of workload would include: stay litigation, motions relating to sale, lease or use of property, use of cash collateral, motions to obtain credit and motions to assume unexpired non-residential leases. The Committee urges the Administrative Office to maintain data on these or similar measures or workload.

In light of these factors and the priority attention now being given to budget constraints, the Subcommittee identified those districts which display a clear and urgent need for adding bankruptcy judgeship positions.

Two of the original recommendations of the Administrative Conference, the district of Northern Oklahoma and the district of Eastern Virginia, met the original criteria established by both the Judicial Conference and all of the additional criteria developed by the

ad hoc Subcommittee. Accordingly, significant need for relief was evident. In each case, however, an adjacent district within the State was identified as an underutilized district. The Subcommittee agreed that, rather than creating new positions, bankruptcy judges from the underutilized adjacent districts should be designated to serve in the affected districts, pursuant to existing statutory authority.

The other 12 districts for which new positions were recommended by the Administrative Office failed to meet all of the criteria utilized by the Subcommittee.

V. Section-by-Section

SECTION 1

This section authorizes the appointment of thirty-four (34) additional bankruptcy judges in specified judicial districts. The judgeship designated to sit in the Western district of Kentucky is to have concurrent jurisdiction in the Eastern district of Kentucky.

SECTION 2

This section would amend the Farm Bill, Public Law 99-198, enacted into law on December 23, 1985, to make the existing homestead protection program mandatory rather than discretionary for the Department of Agriculture or the Small Business Administration.

VI. Committee Action

On February 27, 1986, at the Business Meeting of the Senate Committee on the Judiciary, the Subcommittee proposed, as an amendment in the nature of a substitute, the authorization of 34 additional bankruptcy judgeships. In making this recommendation, Senator Hatch invited any Senator to submit for the record additional data in cases where a convincing case could be developed. Material received is included in the appendix to this report.

Before voting on this recommendation, Senator Edward Kennedy (D-MA) proposed an amendment to S. 1923, which would amend the Farm Bill, Public Law 99-198, enacted into law on December 23, 1985. Both this amendment and the amendment in the nature of a substitute to S. 1923, were accepted by the Full Committee, unanimously, by voice vote.

VII. Regulatory Impact Statement

In compliance with paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the Committee finds that the implementation of S. 1923, as reported, will not result in increased regulation.

VIII. Cost Estimate

In compliance with paragraph 11(a), rule XXVI of the Standing Rules of the Senate, the Committee offers the following report of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 11, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1923, a bill to provide for additional bankruptcy judges, as ordered reported by the Senate Committee on the Judiciary, February 27, 1986.

The bill creates 34 additional U.S. bankruptcy judgeships, with judges to be appointed by the courts of appeals for 14-year terms. We estimate that the increased costs to the federal government in the first 12 months after these new judges begin to be appointed will be approximately $11.4 million, including nonrecurring costs of $3.2 million. The total recurring costs associated with each new bankruptcy judgeship, based on information provided by the Administrative Office of the U.S. Courts and analysis of current spending levels, are estimated to be approximately $250,000 per year (at 1987 prices). This includes higher judicial payroll, as well as additional support staff (one clerk and one secretary per judge), operations and maintenance expenses, and costs for space and facilities. We therefore expect costs of $9.0 million in the second year. With subsequent increases for inflation, costs by the fifth year would reach $10.7 million. The timing of these expenditures depends on when the Congress provides increased appropriations for the new positions. Should funding be provided in the 1987 appropriation, or in a supplemental appropriation late in 1986, most of the first-year costs will be incurred in 1987.

This bill also makes the now discretionary farm homestead protection program mandatory for the Department of Agriculture (USDA) and the Small Business Administration (SBA). This program allows a farmer who is indebted to either agency to retain the family home and a few acres of adjoining land for a period of five years following foreclosure, bankruptcy, or forced liquidation, while paying rent to the lender. At the end of this period, the farmer would have the chance to redeem the homestead property. We expect this change to result in no additional costs to either agency. The USDA is already using the discretionary procedures for all foreclosures, and therefore will incur no additional costs if the program is made mandatory. The SBA very rarely forecloses on farm loans, preferring instead to reach negotiated settlements with borrowers. This provision, therefore, will involve little change in their procedures.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

JAMES BLUM
(For Rudolph G. Penner, Director).

IX. Changes in Existing Law

In compliance with paragraph 12, rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1923, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE ANNOTATED

Title 28—Judiciary and Judicial Procedure

PART I—ORGANIZATION OF COURTS

Chapter	Section
6. Bankruptcy judges	151
7. United States Claims Court	171
[9. Repealed]	
11. Court of International Trade	251

* * * * * * *

CHAPTER 6—BANKRUPTCY JUDGES

Sec.
151. Designation of bankruptcy courts.
152. Appointment of Bankruptcy judges.

* * * * * * *

§ 152. Appointment of bankruptcy judges

(a)(1) * * *

* * * * * * *

(2) The bankruptcy judges appointed pursuant to this section shall be appointed for the several judicial districts as follows:

Districts	Judges
Alabama:	
Northern	5
Middle	2
Southern	2
Alaska	1
Arizona	4
Arkansas:	
Eastern and Western	[2] *3*
California:	
Northern	[7] *8*
Eastern	[4] *6*
Central	[12] *17*
Southern	3
Colorado	4
Connecticut	2
Delaware	1
District of Columbia	1
Florida:	
Northern	1
Middle	[2] *4*
Southern	3
Georgia:	
Northern	[4] *6*
Middle	2
Southern	[1] *2*
Hawaii	1
Idaho	[1] *2*
Illinois:	
Northern	[8] *9*

Districts	Judges
Central	[2] *3*
Southern	1
Indiana:	
Northern	2
Southern	4
Iowa:	
Northern	[1] *2*
Southern	[1] *2*
Kansas	3
Kentucky:	
Eastern	1
Western	[2] *3*
Louisiana:	
Eastern	2
Middle	1
Western	2
Maine	2
Maryland	[2] *3*
Massachusetts	4
Michigan:	
Eastern	4
Western	[2] *3*
Minnesota	4
Mississippi:	
Northern	1
Southern	2
Missouri:	
Eastern	3
Western	3
Montana	1
Nebraska	[1] *2*
Nevada	[2] *3*
New Hamsphire	1
New Jersey	5
New Mexico	2
New York:	
Northern	2
Southern	7
Eastern	6
Western	3
North Carolina:	
Eastern	2
Middle	2
Western	1
North Dakota	1
Ohio:	
Northern	8
Southern	7
Oklahoma:	
Northern	1
Eastern	1
Western	[2] *3*
Oregon	4
Pennsylvania:	
Eastern	3
Middle	2
Western	3
Puerto Rico	2
Rhode Island	1
South Carolina	[1] *2*
South Dakota	1
Tennessee:	
Eastern	[2] *3*
Middle	2
Western	[2] *3*

Districts	Judges
Texas:	
Northern	[4] *5*
Eastern	1
Southern	[3] *5*
Western	[2] *3*
Utah	[2] *3*
Vermont	1
Virginia:	
Eastern	3
Western	3
Washington:	
Eastern	[1] *2*
Western	4
West Virginia:	
Northern	1
Southern	1
Wisconsin:	
Eastern	3
Western	2
Wyoming	1.

PUBLIC LAW 99-198 [H.R. 2100]; DECEMBER 23, 1985

FOOD SECURITY ACT OF 1985

* * * * * * *

TITLE XIII—CREDIT

Sec. 1301. Joint operations.
Sec. 1302. Eligibility for real estate and operating loans.

* * * * * * *

Sec. 1321. Homestead protection.

* * * * * * *

HOMESTEAD PROTECTION

SEC. 1321. The Consolidated Farm and Rural Development Act is amended by adding after the section added by section 1320 the following:

"Sec. 352. (a) * * *

* * * * * * *

"(b)(1) If the Secretary forecloses a loan made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), the Administrator forecloses a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.), or a borrower of a loan made or insured by either agency declares bankruptcy or goes into voluntary liquidation to avoid foreclosure or bankruptcy, the Secretary or Administrator [may] *shall* upon application by the borrower, permit the borrower to retain possession and occupancy of any principal residence of the borrower, and a reasonable amount of adjoining land for the purpose of family maintenance.

* * * * * * *

APPENDIX

ADDITIONAL STATEMENTS AND VIEWS

United States Bankruptcy Court
Central District of California
930 United States Courthouse
Los Angeles, California 90012

Chambers of
William J. Lasarow
Judge

March 11, 1986

The Honorable Strom Thurmond
United States Senate
Russell Bldg., Suite 218
Washington, D. C. 20510

Re: Additional Bankruptcy Judges for
Central District of California

Dear Senator Thurmond:

I learned that the Senate Judiciary Committee has recommended only five additional bankruptcy judges for the Central District of California. That recommendation would reduce by two the number recommended by the Judicial Conference. Last week I received from the Administrative Office of the United States Courts the official filing statistics for the calendar year 1985. These are the most recent statistics available and should support a greater number of bankruptcy judges for the Central District of California than recently recommended.

According to the latest statistics the number of bankruptcy cases commenced in the entire country in 1985 was 412,431. Included in that number were 23,374 Chapter 11 filings. There were 65,070 adversary proceedings filed during that 12 month period. In the Central District of California during calendar year 1985 total new case filings were 36,934, Chapter 11 filings were 1,925 and adversary proceedings filings were 7,292. If the Central District of California had 17 bankruptcy judges during 1985 as recommended by the Senate Judiciary Committee the average number of new cases filed in calendar year 1985 per judge in the Central District of California would have been 2,173 and the average new Chapter 11 filings per judge would have been 113. The Judicial Conference recommended additional judges for those districts having a minimum of 1,800 to 2,000 new cases per judge during the 12 month period ending June 30, 1985 or 100 new Chapter 11 cases per judge for that same period. With 17 judges as recommended by the Judiciary Committee and based upon the filings for the 12 month period ending December 31, 1985, the Central District of California would have qualified for even more additional judges under both of those two categories.

I understand that the Senate Judiciary Committee also considered the average number of terminations of adversary proceedings with court action. According to the statistics for the 12 month period ending June 30, 1985 the average adversary proceedings terminations with court action among the 12 judges in the Central District of California was 139. I have received no statistics as to the terminations with court action for the 12 month period ending December 31, 1985. However, the total terminations for adversary proceedings, both with and without court action, for the Central District of California increased almost 300% from 4,083 for the 12 month period ending June 30, 1985 to 12,012 for the 12 month period ending December 31, 1985. The cumulative statistics for the past five years show that in the Central District of California terminations of adversary proceedings with court action represented 49% of the total proceedings terminated. If this ratio prevails, then the average terminations of adversary proceedings in the Central District of California for each of the 12 judges for the 12 month period ending December 31, 1985 would be 490. Examining new filings as opposed to terminations of adversary proceedings for the 12 month period ending December 31, 1985, we find that the nationwide average of new filings of adversary proceedings per judge is 280 while the average for each of the 12 judges in the Central District of California is 608. The most recent statistics for adversary proceedings covering the 12 month period ending December 31, 1985 would indicate the need for an increase over the 7 additional bankruptcy judges for the Central District of California recommended by the Judicial Conference.

The number of bankruptcy judges, then known as referees, in our district was increased from 11 to 12 in 1964. That was 22 years ago. We were then known as the Central Division of the Southern District of California, and the area covered by the Central Division was substantially the same as our present Central District. We still have 12 bankruptcy judges, the same number as in 1964, despite the enormous increase in filings and the greatly enlarged trial jurisdiction over the past 22 years.

I hope that the most recent statistics set forth in this letter will justify the restoration of the additional judges which the Judiciary Committee recommended to be cut.

Respectfully yours,

WILLIAM J. LASAROW
Chief Bankruptcy Judge

WJL:ec

United States District Court
Southern District of California
940 Front Street
San Diego, California 92189

Chambers of
Gordon Thompson, Jr.
Chief Judge

March 17, 1986

Hon. Pete Wilson
United States Senator
720 Hart
Senate Office Building
Washington, D. C. 20510

Dear Senator Wilson:

This is to alert you to a developing problem regarding the United States Bankruptcy Court here in San Diego, which as you know is a unit of the United States District Court for the Southern District of California. Currently pending before the Senate is S.1923 which would provide the first national increase in the number of bankruptcy judges since 1978, the year of the passage of the Bankruptcy Code.

Since 1978 the uncertainty concerning the status of the Bankruptcy Court has delayed consideration of legislation for additional judgeships, even though the enactment of the Bankruptcy Code has resulted in a virtual avalanche of increased case filings throughout the country. This increase in filings has been particularly heavy in California, with the 1985 case filings in San Diego being up 242% over 1975, the year in which a third judge was added to the local bankruptcy bench. Since the 1980 fiscal year, the first full year under the Code, we have seen a 173% increase in filings.

On July 10, 1984, the Bankruptcy Amendments and Federal Judgeship Act of 1984 became effective. These amendments reestablished the Bankruptcy Court in a manner consistent with the dictates of the Supreme Court as announced in Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982). With the Constitutional crisis having been resolved, the Judicial Conference's Bankruptcy Committee undertook to survey the need for additional judges. While the Committee saw a great need for a general increase in judgeships nationwide, it recognized that current budgetary restrictions required that any recommendations submitted to Congress under 28 U.S.C. §152(b)(2) be kept to the absolute minimum consistent with its responsibility to assure that the Bankruptcy Courts can continue to function. With this understanding, the Committee conducted an extensive review of the requests of the various districts. To better judge these requests, the Committee formulated a two-prong test. This standard applied initial criteria of 1,800 to 2,000 total petitions filed and 100 Chapter 11 petitions filed, per judgeship, before any additional judge would be recommended for a district. These criteria were easily satisfied by the filings found here in San Diego, which has one of the highest levels of Chapter 11 reorganization filings in the nation. Typical examples of the cases currently being handled in the local bankruptcy court are: Nucorp, Inc.; Westgate-California Corp.; Imperial Airlines; San Pasqual Vineyards, Inc.; the Radisson Hotel; and J. David Dominelli.

After conducting its extensive review, the Judicial Conference of the United States recommended that only 48 new Bankruptcy judgeships be created at this time. This included one additional judge for San Diego. These recommendations were

reflected in S.1923 when it was introduced in the Senate. However, when the Senate Judiciary Committee reported S.1923 on February 27, 1986, it only provided for 34 new judgeships, with the additional judge for San Diego being one of those eliminated.

The Administrative Office of the United States Courts has informed us that the Judiciary Committee determined that in addition to considering total case filings, it would also look at the number of adversary proceedings terminated "with court action" as an additional factor to be considered in evaluating need. Apparently it was on this prong that the San Diego request floundered.

We believe that use of this last factor contributes little to an objective analysis of the relative need among the various districts and in fact is misleading. The statistics regarding case filings are prepared in a timely and accurate manner throughout the country. However, the BC-6 forms which report termination of adversary proceedings, are not timely prepared in all districts because of the lack of personnel in the various clerks' offices. The clerical work in closing an adversary proceeding file is not crucial to the adjudicative process and can be delayed until personnel have free time to prepare the form. In fact, due to personnel shortages here in San Diego, we had a backlog of 515 adversary proceedings ready for closing and the preparation of the BC-6 form as of June 30, 1985. Also, there has been no survey conducted to insure that the information is being reported on a consistent basis throughout the system.

Perhaps the most disheartening aspect of reference to this termination factor is that adversary proceedings can only be terminated by judicial action when there are judges available to take action. In San Diego we have had long periods of vacancy in two of our current judgeships over the last three years. Both Chief Bankruptcy Judge Herbert Katz and his successor, Chief Bankruptcy Judge Ross Pyle, have recently left office after long periods of service. They both noted that the continued upward spiral of case filings was a major factor in their decisions to leave. Naturally it took a considerable period of time to fill these vacancies. During this time little judicial attention was devoted to their pending adversary proceedings, given that no judges were available. No adjustment has been made to the statistics used by the Judiciary Committee to reflect this vacancy condition. It would be a supreme irony if San Diego is deprived of a needed judge based on statistics that reflect a lack of judicial action caused by vacancies created by jurists who have thrown in the towel because of the high increase in case filings.

Further, in districts such as San Diego, which has a high level of Chapter 11 reorganizations pending, the judges must spend most of their time dealing with the myriad motions filed in Chapter 11 cases and therefore cannot process adversary proceedings as quickly as they would like. In fact, a high level of terminations of adversary proceedings is more likely to reflect a court without a pressing need for new judges than to the contrary.

If S.1923 is approved without amendment, it will create an unfair allocation of judicial resources, much to the disadvantage of this community. Based on filings for the year ended June 30, 1985, the average case load for the 266 bankruptcy judges to be authorized by S.1923, as compared with the then judges allocated for San Diego, shows a significant understaffing for the local bankruptcy court.

	Per Judge Average For		
	All 266 Judges Nationwide	Three San Diego Judges	San Diego as % of National Average
Total Cases Pending as of 6-30-85	2,189	3,489	152%
Total Chapter 11 Cases as of 6-30-85	241	583	242%
Total Cases Filed year ending 6-30-85	1,270	1,941	142%
Chapter 11 Cases filed year ending 6-30-85	81	191	236%
Total Adversary Proceedings filed year ending 6-30-85	211	339	161%

It is anticipated that this disparity will increase in the future for the first five months of fiscal 1986 reflects that case filings in San Diego are up over 25% compared to the prior fiscal year. The monumental Chapter 11 burden which would be placed on our local bankruptcy bench can be seen by a comparison with the other California districts and Nevada (see statistical table enclosed). This comparison demonstrates that while San Diego has experienced the largest increase in case filings, under the Code, of any California district, it is the only district not receiving relief under S.1923.

Anything you can do to remedy this unfortunate result would be greatly appreciated. If I can be of any assistance, please call on me at any time.

Very truly yours,

Gordon Thompson Jr.

GORDON THOMPSON, JR.
Chief Judge

COMPARISON OF BANKRUPTCY FILINGS FOR SELECTED COURTS

TWELVE MONTH PERIODS ENDED JUNE 30

Court Location	1980	No. of Judges	Weighted Case Load	1985	No. of Judges	Weighted Case Load	Percent Increase	Proposed Judges	Weighted Case Load	Percent Increase
Southern California										
Chapter 7 Petitions	2,283	3	761	3,013	3	1,004	132%	3	1,004	132%
Chapter 11 Petitions	104	3	35	573	3	191	551%	3	191	551%
Chapter 13 Petitions	1,107	3	369	2,239	3	746	202%	3	746	202%
Adversary Proceedings*	454	3	151	1,018	3	339	224%	3	339	224%
TOTAL	3,948	3	1,316	6,843	3	2,281	173%	3	2,281	173%
Central California										
Chapter 7 Petitions	16,497	12	1,375	22,797	12	1,900	138%	17	1,341	98%
Chapter 11 Petitions	265	12	22	1,905	12	159	719%	17	112	507%
Chapter 13 Petitions	1,847	12	154	9,131	12	761	494%	17	537	349%
Adversary Proceedings*	4,085	12	340	3,707	12	309	91%	17	218	64%
TOTAL	22,694	12	1,891	37,540	12	3,128	165%	17	2,208	117%
Northern California										
Chapter 7 Petitions	8,392	7	1,199	6,736	7	962	80%	8	842	70%
Chapter 11 Petitions	199	7	28	827	7	118	416%	8	103	364%
Chapter 13 Petitions	3,328	7	475	4,466	7	638	134%	8	558	117%
Adversary Proceedings*	1,361	7	194	1,684	7	241	124%	8	211	108%
TOTAL	13,280	7	1,897	13,713	7	1,959	103%	8	1,714	90%
Eastern California										
Chapter 7 Petitions	5,529	4	1,382	7,281	4	1,820	132%	6	1,214	88%
Chapter 11 Petitions	110	4	28	863	4	216	785%	6	144	523%
Chapter 13 Petitions	1,626	4	407	2,000	4	500	123%	6	333	82%
Adversary Proceedings*	759	4	190	1,161	4	290	153%	6	194	102%
TOTAL	8,024	4	2,006	11,305	4	2,826	141%	6	1,884	94%
Nevada										
Chapter 7 Petitions	1,821	2	911	2,187	2	1,094	120%	3	729	80%
Chapter 11 Petitions	69	2	35	344	2	172	499%	3	115	332%
Chapter 13 Petitions	92	2	46	356	2	178	387%	3	119	258%
Adversary Proceedings*	200	2	100	267	2	134	134%	3	89	89%
TOTAL	2,182	2	1,091	3,154	2	1,577	145%	3	1,051	96%

* 1985 figures for adversary proceedings do not include motions for relief from stay nor Section 522(f) motions.

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United States Senate
COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, D.C. 20510

March 12, 1986

The Honorable Strom Thurmond
United States Senator
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Strom:

We are writing to you regarding the need for an additional Bankruptcy Judgeship for the Northern District of Indiana. We understand that S. 1923 originally provided for an additional Indiana judgeship but that the status of this appointment is now uncertain.

We would like to provide you with updated statistics and other information that is unavailable to you which indicates the serious need for an additional judgeship in the Northern District of Indiana.

In arriving at conclusions as to which districts would be given additional judgeships, the Judiciary Committee examined statistics of bankruptcy activity during the twelve month period ending June 30, 1985. Statistics for the Northern District of Indiana during the eight month period from July 1, 1985, to February 28, 1986, show that there were 3,899 filings, a substantial increase from prior years. Terminations of proceedings during this same period were 2,855, resulting in a substantial increase in pending cases.

Moreover, regarding the statistics from the twelve month period ending June 30, 1985, the low rate of termination of proceedings without court action and the relatively large percentage of Chapter 11 petitions being converted to Chapter 7 are the result of having, in reality, only one active judge for the last several years. One of the Bankruptcy Judges for the district was sick for a number of years and then retired in June, 1984, and the vacancy was not filled until May, 1985.

Therefore, the figures for court actions used by the Judiciary Committee represented an inaccurate picture of the situation facing the Northern District of Indiana in that these figures reflect the work of one, rather than two judges. Because only one judge was able to decide cases due to the illness and eventually, the retirement of the second judge, attorneys settled or otherwise terminated cases without court action. Businesses that may have under other circumstances, desired to reorganize, were unable to do so because the sole judge was unable to render decisions in all cases.

We are confident that after examining this additional information, you will recognize that a new Bankruptcy Judge should be added to the Northern District of Indiana. Thank you in advance for your careful consideration of this matter.

Sincerely,

Dan Quayle
United States Senator

Richard G. Lugar
United States Senator

RGL/alk

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
600 GALAXY BUILDING
330 SECOND AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55401

ROBERT J. KRESSEL
BANKRUPTCY JUDGE

September 26, 1984

Honorable Rudy Boschwitz
United States Senator
SH506 Hart Building
Washington, DC 20510

Dear Senator Boschwitz:

When Judges Kressel, Mahoney, and O'Brien had an opportunity to meet with you in Washington in May of this year, they mentioned our concern about the number of Minnesota bankruptcy judges authorized in H.R. 5174. That number was four and that was the number authorized by the legislation actually enacted as Public Law 98-353. We thought then and still think that the number really should be at least five and preferably six. We know that you received a letter from Chief Bankruptcy Judge John Connelly to that effect and that you and Senator Durenberger did make an attempt to obtain a change in the bill prior to enactment. We are writing now to let you know that that reduction in number is already causing problems for litigants in bankruptcy cases and it will get worse since the part-time bankruptcy judgeship at Duluth will lapse in July of 1986 pursuant to Public Law 98-353.

We hesitate to write about this problem now since we know that time is short in this session and that there is much business to be done. We also suspect that you and your colleagues are very tired of hearing about bankruptcy problems.

While we are unanimous in our approach to this problem, we have asked Judge Kressel to coordinate bankruptcy court contact. Therefore if you would like any further information or assistance, you can let him know.

Pursuant to §406 of Public Law 95-598 the Judicial Conference was directed to report to Congress by January 3, 1983 on the number of bankruptcy judges that would be needed "for the expeditious and effective administration of justice". Various views were solicited as part of the process. Basically the bankruptcy judges who were sitting in Minnesota at the time recommended that there be six bankruptcy judges for the district and that the responsibility for handling the cases in the Sixth Division of Minnesota be returned to the Minnesota bankruptcy judges and the North Dakota bankruptcy judge be relieved of that responsibility. Our understanding is that the Eighth Circuit Judicial Council adopted that recommendation although we have been unable to verify that.

In any case it is clear that the Administrative Office of the United States Courts who conducted the initial study on behalf of the Judicial Conference recommended five full-time judges for Minnesota with the present arrangement for the handling of Sixth Division cases by the North Dakota bankruptcy judge to be continued. We are enclosing a copy of that portion of the report of the Director of the Administrative Office dealing with Minnesota. The Administrative Office report was discussed by the

Judicial Conference at its September 1982 meeting which resulted in a report being made by the Judicial Conference recommending 304 full-time bankruptcy positions including the adoption of the Director's recommendation regarding the handling of Minnesota bankruptcy cases; i.e., five full-time judges plus the help of the North Dakota bankruptcy judge for Sixth Division cases, in effect giving Minnesota five and one-half bankruptcy judges. A year later at its September 1983 meeting the Conference re-affirmed its recommendation.

However for some reason when bills were being introduced, the number four appeared fairly uniformly. The first bill introduced was H.R. 3 which was introduced on January 3, 1983. That bill included a provision for four full-time bankruptcy judges for Minnesota and eliminated the position of part-time bankruptcy judge. While we do not know where the number four came from, we can speculate. The Report of the Judicial Conference may not yet have been available to Mr. Rodino when he introduced H.R. 3 and the numbers that appear, we suspect, were the current number of full-time bankruptcy judges in each district. In the case of Minnesota, of course, that ignores the services of the half-time judge in Duluth and the services of the North Dakota bankruptcy judge which together really gave Minnesota the services of five full-time bankruptcy judges without even determining whether that was a sufficient number.

That suspicion is borne out by Report No. 98-55 accompanying S. 1013. With the exception of increasing the number of bankruptcy judges for the northern district of Alabama from four to five, the proposed number of bankruptcy judges for each district is the same in S. 1013 as it was in H.R. 3. That report on pages 21 through 23 discusses the number of bankruptcy judges which was set in S. 1013 at 229 and specifically explains how that number was arrived at. With very few exceptions, the numbers in S. 1013 were simply the numbers of full-time bankruptcy judges currently sitting. The explanation for the lower number rather than the 304 recommended by the Judicial Conference was "until such factors as the national economy and the allocation of the bankruptcy workload between Article I and Article III judges stabilize."

As to the latter, we think that experience under the Emergency Rule will show that a very minimal amount of the bankruptcy workload was transferred to the district court. We have no reason to suspect that it will be any different under the new legislation. We obviously cannot speak for the national bankruptcy bench but it is clear in Minnesota that bankruptcy judges consider it their responsibility to do as much of the bankruptcy work that they can consistent with the jurisdictional arrangement in the new law. We can assure you that it is not looked upon by any of us as an excuse to somehow transfer our work to the district judges.

As to the first concern expressed in the report, we will spare you actual statistics but it is clear that while total bankruptcy filings have leveled off somewhat, the filings of Chapter 11 cases which are clearly the most complicated and consume the most judge-time are continuing to rise at a substantial rate. Likewise, adversary proceedings after making adjustment for relief from stay proceedings (which used to be adversary proceedings and are now motions under the new Bankruptcy Rules) are also increasing.

When H.R. 5174 was introduced in March of this year it also incorporated the numbers from H.R. 3 and S. 1013 with the exception of increasing the number of bankruptcy judges in New Mexico, the western district of Virginia and the western district

of Wisconsin, and decreasing the number in the northern district of Texas.

To sum all of this up, what has happened is that contrary to expectations a year and a half ago that an additional judgeship would be authorized, we have in fact had our work increased by having to assume responsibility for the Sixth Division of Minnesota but will be losing the services of a bankruptcy judge at Duluth. Since there will now be no bankruptcy judges in northern Minnesota, the additional work will have to be assumed by the four Twin Cities bankruptcy judges which not only means additional caseload but obviously substantial travel with the unfortunate result of less service to all litigants in the bankruptcy court, especially those in northern Minnesota.

Thank you for any attention you might be able to give to this problem.

Sincerely,

John J. Connelly
Chief Bankruptcy Judge

Robert J. Kressel
Bankruptcy Judge

Margaret A. Mahoney
Bankruptcy Judge

Dennis D. O'Brien
Bankruptcy Judge

Gregory F. Kishel
Bankruptcy Judge

Report of
The Director of the Administrative Office
of the United States Courts
to the Judicial Conference of the United States
Pursuant to Section 406 of Public Law 95-598

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF MINNESOTA

RECOMMENDATIONS

1.	Number of judges:	Five (5) One judge from the District of North Dakota would be given concurrent jurisdiction to serve the Sixth Division of this district, excluding Stearns County.

2. Location of headquarters:

Minneapolis (2) judges
Saint Paul (2) judges
Duluth (1) judge

3. Places of holding court:

Duluth	Minneapolis
Fergus Falls	Rochester
Mankato	Saint Cloud

4. Territory served:

The District of Minnesota as described in 28 U.S.C. § 103.

EFFECT OF RECOMMENDATIONS

Changes from the present organization:

1. Would increase the number of authorized judges from four (4) full-time and one (1) part-time to five (5) bankruptcy judges.

2. Would give concurrent jurisdiction to the judge in the District of North Dakota to serve the counties encompassing the statutory Sixth Division of this district, excluding Stearns County.

BASIS FOR RECOMMENDATIONS:

Number of Judges

Estate Filings	Total estate filings for all bankruptcy cases in the district reached 7962 in 1981. This is an increase of 120% over the 3605 estates filed in 1979, the last year prior to the effective date of P.L. 95-598, and an increase of 49% over the 5358 estates filed in 1980.
Adversary Proceedings	In 1981, 830 adversary proceedings were filed in the district, and 606 were terminated. This left 429 pending adversary proceedings at the end of 1981 compared to 205 adversary proceedings which were pending at the beginning of the year, a 109% increase in pending adversary proceedings during 1981.
FJC Weights Application	The application of caseweights developed by the Federal Judicial Center shows a current need for 3.8 bankruptcy judges in the district and a projected need for 4.2 judges in 1982.
Bankruptcy Court's View	The bankruptcy judges in the district expressed views that ranged from 5-6 bankruptcy judges as the number needed to handle the workload.
Analysis and Summary	There is a need for additional judicial manpower in this district. Although removal of the caseload arising in the Sixth Division, excluding Stearns County, would reduce the total estates by approximately 5% the factors above indicate a fifth bankruptcy judge would

be needed to serve the needs of this district. The Minneapolis-Saint Paul area is the industrial and commercial center for this district and generates the larger and more complicated cases. There have been several large Chapter 11 cases filed here, which have required enormous expenditures of judicial time. A large proportion of the adversary proceedings filed here are often of the complex civil litigation variety which consume protracted periods of judge time.

While the cases presently served by the part-time judge in Duluth comprize only ten percent of the caseload, it is envisioned that pursuant to the provisions of 28 U.S.C. § 156 the judges of the court would divide the workload so that all judges would share the burden equally and be fully utilized. Headquartering one of the judges at Duluth would provide a greater degree of service to the residents and it is anticipated that in the long run this will save travel costs.

Headquarters and Places of Holding Court

The present Sixth Division of the District of Minnesota as described at 28 U.S.C. § 103(6), excluding Stearns County, would be served by a bankruptcy judge from the adjacent district of North Dakota. This would formalize the present arrangement whereby the Sixth Division is serviced by the bankruptcy judge from North Dakota. There would be no other changes recommended to the present locations of headquarters or other places of holding court.

TABLE 1

BANKRUPTCY ESTATES FILED

DISTRICT OF MINNESOTA

Under the Bankruptcy Act and the Code
in Statistical Years (Ended June 30) for
1976 through 1981

Circuit: Eighth

Statistical Year	Total Estates	Bankruptcy Act						Business Estates	% of Bus. to Total Estates
		Chapters I - VII	Chap. X	Chap. XI	Chap. XII	Chap. XIII	Other		
1976	4,008	3,518	1	70	2	417	0	665	16.5
1977	3,368	3,055	0	21	0	292	0	651	19.3
1978	3,262	2,946	0	21	1	294	0	820	25.1
1979	3,605	3,240	0	36	0	329	0	491	13.6
7/1/79 thru 9/30/79	1,005	904	0	14	0	87	0	102	
		Bankruptcy Code							
		Chapter 7	Chapter 11			Chapter 13	Other		
10/1/79 thru 6/30/80	4,305	3,803	39			463	0	755	
Total 1980	5,310	4,707	53			550	0	857	16.1
1981	7,962	6,529	122			1,311	0	1,425	17.9

NOTE: Any differences in the figures above from those published in the Director's Annual Reports for the respective years reflect minor corrections to the published figures.

MINNESOTA

NOTE: The North Dakota bankruptcy judge has concurrent jurisdiction with the Minnesota bankruptcy judges in the 6th Division with the exception of Stearns County.

DISTRICT: MINNESOTA (Page 1 of 3) Counties: 87 CUMULATIVE COUNTY COUNTS

(bankruptcy courts*)(add'l PBC) (urban percentage)(population)		1977	1978	1979	1980 Cases	1980 Estates	1981 Cases	1981 Estates
1. Aitkin (-)	(1975) 12,575	0	2	1	10	15	13	1
2. Anoka (87.8)	186,350	205	255	261	311	437	413	65
3. Becker (23.8)	26,600	19	5	11	18	28	21	3
4. Beltrami (43.4)	29,550	51	44	14	38	44	28	4
5. Benton (44.2)	23,100	5	13	13	12	19	20	3
6. Big Stone (35.9)	8,000	3	3	6	0	0	1	
7. Blue Earth (59.0) (Mankato)	51,750	10	0	31	34	51	54	8
8. Brown (65.8)	29,700	17	19	7	12	18	17	2
9. Carlton (31.4)	28,700	31	25	29	24	33	37	5
10. Carver (32.5)	33,650	34	25	19	40	60	38	6
11. Cass (-)	19,900	8	6	4	8	10	5	
12. Chippewa (41.1)	15,500	11	12	10	8	15	17	3
13. Chisago (-)	22,100	37	23	32	35	58	49	8
14. Clay (68.7)	46,800	36	46	41	41	59	66	10
15. Clearwater (-)	8,800	4	2	2	2	3	2	
16. Cook (-)	3,700	2	0	0	1	2	1	
17. Cottonwood (25.7)	15,600	4	4	6	6	9	15	2
18. Crow Wing (33.5)	38,900	11	13	15	25	35	31	5
19. Dakota (84.5)	166,800	177	191	239	273	374	349	53
20. Dodge (-)	13,550	14	5	1	8	15	19	3
21. Douglas (30.5)	25,100	4	23	15	14	19	16	2
22. Faribault (32.3)	20,400	4	5	7	7	11	15	2
23. Fillmore (11.2)	22,100	11	9	8	6	9	19	2
24. Freeborn (51.0)	36,700	34	17	20	35	56	22	3
25. Goodhue (30.2)	37,850	21	21	17	14	21	31	4
26. Grant (-)	7,500	7	2	2	3	3	3	
27. Hennepin (98.4) (Minneapolis*)	915,650	1079	1036	1073	1204	1531	1733	239
28. Houston (32.8)	17,900	9	3	7	5	5	16	2
29. Hubbard (26.2)	12,150	6	2	16	14	15	8	1
30. Isanti (20.9)	20,150	20	19	23	31	43	45	7
31. Itasca (20.4)	38,550	18	9	17	13	19	28	4
32. Jackson (24.7)	14,650	7	3	12	9	15	9	2
33. Kanabec (26.4)	11,500	16	9	6	12	20	8	1
34. Kandiyohi (42.1)	32,550	12	18	26	22	32	27	4
35. Kittson (-)	7,000	2	1	6	2	3	6	1

DISTRICT: MINNESOTA (Page 2 of 3)

CUMULATIVE COUNTY COUNT

(bankruptcy courts*)(add'l PBC) (urban percentage)(population)		1977	1978	1979	1980 Cases	1980 Estates	1981 Cases	1981 Estates
1. Koochiching (37.7)	(1975) 17,700	3	5	7	11	17	12	1[illegible]
2. Lac qui Parle (-)	11,150	2	3	7	5	6	4	6
3. Lake (58.8)	13,800	7	6	10	5	5	9	16
4. Lake of the Woods (-)	4,300	2	0	1	0	0	2	4
5. Le Sueur (22.1)	22,400	6	21	4	11	15	17	28
6. Lincoln (-)	8,400	1	2	4	4	7	5	7
7. Lyon (51.5)	24,750	10	17	23	17	21	28	43
8. Mahnomen (-)	5,850	1	0	3	0	0	2	3
9. Marshall (-)	13,400	4	0	4	3	3	7	9
10. Martin (44.2)	25,200	20	21	12	9	10	19	31
11. McLeod (43.5)	29,050	19	9	4	12	17	18	30
12. Meeker (28.0)	20,150	6	8	8	4	7	12	18
13. Mille Lacs (17.0)	17,900	14	1	11	19	37	20	35
14. Morrison (27.7)	28,000	7	13	6	10	15	15	22
15. Mower (57.2)	43,900	19	11	12	16	22	22	35
16. Murray (-)	12,000	9	2	4	6	7	8	13
17. Nicollet (63.3)	23,850	8	7	12	7	9	10	14
18. Nobles (42.3)	23,100	19	9	20	15	24	23	35
19. Norman (-)	9,600	8	14	11	4	4	8	12
20. Olmstead (70.5) (Rochester)	87,800	68	51	61	92	122	89	130
21. Otter Tail (27.0) (Fergus Falls)	48,700	29	22	24	24	28	40	56
22. Pennington (63.7)	14,600	12	7	9	9	10	21	26
23. Pine (-)	18,700	19	9	10	10	14	22	39
24. Pipestone (41.7)	12,100	6	4	9	11	15	6	10
25. Polk (46.3)	35,300	17	17	20	14	20	31	46
26. Pope (22.9)	11,200	3	3	1	9	16	7	12
27. Ramsey (99.7) (St. Paul*)	456,150	573	592	709	711	935	807	1144
28. Red Lake (-)	5,350	2	3	0	6	6	4	8
29. Redwood (24.1)	19,700	6	13	5	7	9	16	26
30. Renville (12.1)	21,000	10	10	15	10	15	14	20
31. Rice (64.3)	43,500	20	21	22	43	59	46	72
32. Rock (41.5)	11,500	2	4	7	6	9	6	9
33. Roseau (22.1)	12,350	7	3	3	6	11	7	10
34. Scott (37.4)	39,650	38	31	38	36	48	59	93
35. Sherburne (21.4)	25,900	23	35	34	43	62	63	99

DISTRICT: MINNESOTA (Page 3 of 3) CUMULATIVE COUNTY COUNT

(bankruptcy courts*)(add'l PWC) (urban percentage)(population)	1977	1978	1979	1980 Cases	1980 Estates	1981 Cases	1981 Estates
1. Sibley (-)	6	5	5	1	2	4	/
2. Stearns (40.0) (St. Cloud)	66	64	57	55	77	65	103
3. Steele (57.0)	14	17	14	21	32	30	49
4. Stevens (48.5)	7	7	6	2	3	14	21
5. St. Louis (71.9) (Duluth*)	116	125	148	131	174	164	249
6. Swift (26.4)	9	17	7	11	15	8	13
7. Todd (11.9)	5	7	9	10	16	11	18
8. Traverse (-)	4	3	0	2	2	7	10
9. Wabasha (20.4)	13	6	8	11	15	22	39
10. Wadena (37.4)	3	6	6	3	4	8	11
11. Waseca (41.0)	11	9	7	12	18	20	32
12. Washington (69.0)	102	87	116	126	167	186	286
13. Watonwan (30.2)	7	3	9	1	1	10	17
14. Wilkin (43.7)	4	5	7	3	5	10	16
15. Winona (59.4)	23	21	27	22	31	31	50
16. Wright (8.4)	41	33	52	62	95	99	170
17. Yellow Medicine (17.9)	8	3	4	18	21	10	16
18.							
19.							
20.							
21.							
22.							
23.							
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31.							
32.							
33.							
34.							
35.							
	3368	3262	3605	3983	5358	5362	7962

DRAFT OF PROPOSED RESOLUTION APPROVED BY THE BANKRUPTCY SECTION OF THE MINNESOTA STATE BAR ASSOCIATION ON DECEMBER 4, 1984

WHEREAS, for a period of time in excess of fifteen years the Bankruptcy Court for the District of Minnesota has operated with four-and-one-half Bankruptcy Judges, with two judges being permanently located in St. Paul, two located in Minneapolis and a half-time judge located in Duluth; and

WHEREAS, the entire Sixth Division of the District of Minnesota (with the exception of Stearns County) encompassing essentially the entire northwest quadrant of Minnesota, was assigned to the Bankruptcy Judge for North Dakota and as a result no Minnesota Bankruptcy Judges covered that part of Minnesota; and

WHEREAS, when varying studies were recently conducted as to how many Bankruptcy Judges Minnesota ultimately should have (the Bankruptcy Judges in Minnesota having recommended that Minnesota have six full-time Bankruptcy Judges for all of the State of Minnesota, including the Sixth Division), the Judicial Conference of the United States recommended that the arrangement involving the Bankruptcy Judge in North Dakota be continued and that Minnesota have <u>five</u> full-time Bankruptcy Judges; and

WHEREAS, in spite of the recommendation of the Judicial Conference of the United States, The Bankruptcy Amendments and Federal Judgeship Act of 1984 ("BAFJA") provides that the number of Bankruptcy Judges in Minnesota be reduced to <u>four</u>, effectively eliminating the half-time position at Duluth (as of July 1986) and, in effect, requiring the four judges to assume responsibility for Sixth Division cases previously handled by the Bankruptcy Judge in North Dakota; and

WHEREAS, it appears that the Congressional specification of the number of Minnesota Bankruptcy Judges as four may have resulted from the fact that Minnesota then had only four current full-time Bankruptcy Judges, and the fact that there was a half-time Bankruptcy Judge in Duluth and that the North Dakota

Bankruptcy Judge was covering the Sixth Division of Minnesota may have been overlooked by Congress; and

WHEREAS, it may have bee anticipated by some observers that the new bankruptcy legislation may have had the effect of transferring some significant amount of the bankruptcy caseload from the Bankruptcy Judges to the District Court Judges but, as a practical matter, there has only been an insignificant transfer of proceedings from Bankruptcy Court to the District Courts as of July 10, 1984, the date of enactment of BAFJA; and

WHEREAS, while total bankruptcy filings have leveled off somewhat in the District of Minnesota, the filings under Chapter 11 (reorganization of businesses) are continuing to rise at a substantial rate and involve the most complicated cases which consume the most time of the Bankruptcy Judges; and

WHEREAS, under the new Congressional legislation there will be no Bankruptcy Judge located north of the Twin Cities and the additional work for the Duluth area as well as the Sixth Division will have to be assumed by the Twin Cities Bankruptcy Judges; and

WHEREAS, such additional commitments by the four Twin Cities Bankruptcy Judges will require substantial travel, will result in less service to all litigants in the Minnesota Bankruptcy Court, and especially those in northern Minnesota; and

WHEREAS, it is incumbent upon the judicial system as a whole to provide sufficient judges so that the cases, controversies and bankruptcy proceedings of citizens and businesses of Minnesota are handled without great inconvenience, undue delay or hardship.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY [OR BY THE BOARD OF GOVERNORS] OF THE MINNESOTA STATE BAR ASSOCIATION (1) That the members of the Minnesota State Bar Association are strongly in favor of Congressional legislation by the United States Congress which would add two additional Bankruptcy judgeships for the District of Minnesota; and (2)

That the officers of the Minnesota State Bar Association are directed to take all appropriate steps which may be necessary and appropriate to implement this Resolution through the actions of its Executive Committee, its appropriate committees and sections, and otherwise.

MEMORANDUM

TO: David Gotlieb, Legislative Assistant,
Office of Senator Rudy Boschwitz

FROM: Samuel Stern
James L. Baillie, Chairperson,
Bankruptcy Law Section of the
Minnesota State Bar Association

RE: Number of Bankruptcy Judges for the District of Minnesota, S. 1923

DATE: January 17, 1986

INTRODUCTION

S.1923 should provide for five bankruptcy judges for the District of Minnesota. The principal reasons are:

(1) Minnesota has historically had five bankruptcy judges. The provision for four judges incorporated in P.L. 98-353 apparently was based, at least in part, on a misunderstanding of the situation in Minnesota.

(2) Minnesota is geographically a large judicial district. If the number of judges is reduced to four, it will be difficult to serve southern Minnesota with its rising farm bankruptcies and northern Minnesota with its agricultural and mining communities' problems. The additional travel time required to serve the entire state will reduce the effectiveness of the judges. In addition, the Twin Cities is as an important commercial center for the Upper Midwest and generates many Chapter 11 business reorganization cases which are more complex than Chapter 11 cases generally.

(3) Calendar year 1985 bankruptcy case filing statistics just released show that Minnesota had a 28.5% increase over 1984 for all cases and a 20% increase over 1984 for Chapter 11 cases. Using Minnesota 1985 filings, if Minnesota had four judges, the average caseload would have been 1606, which is above the national average of 1571 that the proposed legislation seeks to reduce. With five judges, the caseload will be 1285 which is closely matches the proposed national average of 1302.

HISTORY

Since approximately 1968, Minnesota has had the services of the equivalent of five full-time bankruptcy judges: two

full-time bankruptcy judges at St. Paul, two full-time bankruptcy judges at Minneapolis, one part-time bankruptcy judge at Duluth, and, in effect, one part-time bankruptcy judge at Fargo, North Dakota. The bankruptcy judge for the District of North Dakota was assigned all bankruptcy cases and proceedings from the entire Sixth Division of Minnesota (northwestern) Minnesota) except Stearns County. The North Dakota bankruptcy judge was always reflected in reports as a North Dakota judge and standard statistical reports then showed only the four and one-half judges for Minnesota. This statistical glitch has been a source of misunderstanding and is probably a principal reason for the current problem.

Pursuant to § 406 of P.L. 95-598, the Judicial Conference of the United States was to report to Congress by January 3, 1983, on the number of bankruptcy judges that would be needed "for the expeditious and effective administration of justice." Various views were solicited as part of this process. The bankruptcy judges then sitting in Minnesota recommended that there be six bankruptcy judges for the District of Minnesota and that those six judges would then handle the Sixth Division and relieve the North Dakota bankruptcy judge of that responsibility.

The Judicial Conference study was conducted by the Administrative Office for the United States Courts. The Director of the Administrative Office issued a report recommending that five and one-half judges serve Minnesota: five full-time Minnesota bankruptcy judges and the North Dakota bankruptcy judge continuing to serve the Sixth District of Minnesota. At its September, 1982, meeting, the Judicial Conference of the United States adopted the recommendation of the Director of five and one-half bankruptcy judges for Minnesota. A year later, at its September, 1983, meeting, the Judicial Conference reaffirmed its recommendation of five and one-half bankruptcy judges for Minnesota.

In response to the Supreme Court's decision in Northern Pipeline, various bills were introduced in Congress, most of which contained provisions for specific numbers of bankruptcy judges. The first of these bills was H.R. 3 introduced by Congressman Peter Rodino on January 3, 1983. All of the bills provided only four judges for Minnesota. We believe that the authors of the bills had simply put the current number of full-time bankruptcy judges in each district in their respective bills. Thus, a number of districts lost one part-time judge. Because of the North Dakota situation, Minnesota lost two part-time judges, in effect losing one full-time judge. This process is discussed somewhat in Senate Report No. 98-55, dated April 1983, at pages 21-23, accompanying S. 1013, the precursor to P.L. 98-353.

Immediately upon passage of P.L. 98-353 in July of 1984, Minnesota lost one-half of a judgeship, i.e., the assistance of the bankruptcy judge in North Dakota. The position of the part-time judge at Duluth was continued for a period of two years, until July of 1986. Thus, in July Minnesota will its second part-time judge. In fact, the "part-time" judge currently devotes 75-80% of his time to this position and the effect of the loss will be like losing a full-time judge.

After the enactment of P.L. 98-353, the Administrative Office conducted another survey. Again various views were solicited. The current Minnesota bankruptcy judges recommended at least five bankruptcy judges for the District of Minnesota. On December 20, 1984, the Judicial Council for the Eighth Circuit recommended five bankruptcy judges for Minnesota. On

December 4, 1984, the Bankruptcy Section of the Minnesota State Bar Association recommended at least five bankruptcy judges for Minnesota. On February 9, 1985, the Board of Governors of the Minnesota State Bar Association recommended at least five bankruptcy judges for Minnesota. On February 9, 1985, the General Assembly of Delegates of the Minnesota State Bar Association passed a resolution recommending at least five bankruptcy judges for Minnesota.

In appproximately July of 1985, the judgeship recommendations of the Judicial Conference Committee on the Administration of the Bankruptcy System kept Minnesota with the four judgeships as previously established in P.L. 98-353. The recommendations of the Committee were accepted by the Judicial Conference at its September 1985 meeting and thus S. 1923, the bill recently introduced in the Senate at the request of the Judicial Conference, does not contain any correction for Minnesota. We do not believe that there has been any satisfactory explanation for a reduction to four judgeships.

We believe that the net loss of a full-time judgeship for Minnesota would make Minnesota unique. On the face of earlier recommendations, apparently thirteen districts lost part-time positions and two districts lost full-time positions but, except for Minnesota, we believe that each district which lost a position either (a) had a vacant position; (b) did not ask to have the lost position restored; (c) had a lost part-time position replaced by a full-time position; or (d) will have the lost position restored in the current bill, S. 1923.

A statement presented to the Judiciary Committee on December 17, 1985, notes that the Judicial Conference made a decision not to recommend elimination of any position in any districts. The Committee decided that, if some districts became overburdened, those with lighter caseloads would be asked to provide judges on temporary assignments. In response to a recent situation in Iowa, Minnesota judges have been called upon to assist and have willingly done so.

Unless corected, the net effect of the bankruptcy judge legislation, past and proposed, will be to deprive Minnesota of a needed bankruptcy judge position. When the term of part-time judge Gregory Kishel ends in July, 1986, he may be the only judge to lose a job as the result of legislation which increases judge positions nationwide. We believe that this is the result of a failure to understand the previous role of the bankruptcy judge in North Dakota and the cumulative effect of the separate changes, as described above. The historical number of bankruptcy judges for Minnesota -- five --should be retained. That number of judges is also appropriate for the geographic area of the district and the caseload as discussed below.

GEOGRAPHY

In addition to Minneapolis and St. Paul where full-time judges currently sit, designated places of holding court include Duluth (a three-hour drive from Minneapolis and St. Paul), Fergus Falls (a four-hour drive), St. Cloud (a one and one-half hour drive), Rochester (a one-hour drive), and Mankato (a one and one-half hour drive). To better serve the Sixth Division in northwestern Minnesota, the Clerk of Bankruptcy Court has recently opened a permanent office in Fergus Falls. Total filings in the Sixth Division in 1985 exceeded the filings in the Fifth Division Office in Duluth. It appears that the calendar in Fergus Falls will exceed the calendar of

the part-time judge in Duluth. Filings in the Fifth and Sixth Divisions give every indication of increasing further.

As the number of judges decreases, and especially with the loss of a position at Duluth, those parts of the state outside the Twin Cities area will begin to suffer in the amount of service that can be provided. Alternatives include either longer waits to obtain hearings in the outlying areas or travel by the attorneys and parties to one of the court locations in Minneapolis or St. Paul. As judicial resources are stretched thinner, there will be less time available for hearings in Minneapolis and St. Paul as well.

Past experience has indicated that the situation will get worse. Because of Judge Jacob Dim's death, the court was short one bankruptcy judge for approximately five months in 1982. As a result of Judge Kenneth Owen's death in September of 1983 and Judge Hartley Nordin's retirement in December of 1983, the court was one judge short for three months in 1983 and two months in 1984 and two judges short for approximately two months in 1984. While the judges worked diligently to make sure that time-sensitive matters such as relief from stay motions and cash collateral motions were heard as needed, other less urgent matters suffered greatly and matters such as objections to claims and adversary proceedings to determine dischargeability of debts were left pending for very long periods of time.

In addition, the Twin Cities are an important commercial center for the region. Of the three principal types of bankruptcy cases (Chapters 7, 11 and 13), Chapter 11 business reorganizations are by far the most complex and time consuming. Although there are no statistics available, it is reasonable to assume that many of the Chapter 11 cases in the Twin Cities are more complex than in other districts which have few large businesses.

CASE FILINGS

As the number of bankruptcy judges in Minnesota decreases, the caseload increases. As the attached Exhibit shows, total annual case filings increased from 4,764 in 1980 to 6,424 in 1985. Chapter 11 cases, cases which are the most complex and require far more judge time than the other chapters, have quadrupled since 1980. Chapter 13 cases have almost doubled. Likewise, business filings have more than doubled since 1980.

Most significant is the large increase in 1985 over 1984. Total filings increased 28.5% and Chapter 11 cases increased 20%. The recommendation of the Judicial Conference contained in a letter dated December 10, 1985, to increase the total number of bankruptcy judges to 280 was based on a goal of reducing the national average from 1571 to 1302 per judge. With four judges, the 1985 filings would have resulted in a caseload of 1606 per judge. With five judges, the caseload would be 1285. The full calendar year 1985 statistics for Minnesota as described above were not available and therefore not taken into consideration in drafting the current bill, S. 1923. The 1985 increase for Minnesota will be far above the national increase. It is clear that 1986 filings will also increase. Recent studies of the farm economy in Minnesota predict far more farmer bankruptcy filings in 1986 and Chapter 11 filings have continued to rise steadily. If Minnesota has five judges in 1986, it is will be too few rather than too many.

DISTRICT OF MINNESOTA

BANKRUPTCY FILINGS

	1980	1981	1982	1983	1984	1985	Increase 1980 - 1985
Total Cases	4,764	5,543	5,255	4,620	4,997	6,424	35%
Chapter 7 Cases	4,048	4,494	4,143	3,539	3,817	4,957	22%
Chapter 11 Cases	75	117	198	242	249	298	297%
Chapter 13 Cases	641	893	914	839	931	1,169	82%
Business Debtors Including Farmers	859	969	1,391	1,358	1,356	1,710	99%
Farmers	--	--	--	--	355	616	N/A

EXHIBIT

DONALD P. LAY
CHIEF JUDGE
P. O. BOX 75908
ST. PAUL, MINNESOTA 55175

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT

February 10, 1986

Mr. David Gotlieb
Legislative Assistant
Office of Senator Rudy Boschwitz
506 Hart Building
Washington, D.C. 20510

Dear Mr. Gotlieb:

I have been given a copy of the recent resolution of the Section of Corporation, Business and Banking Law of the Minnesota State Bar Association. The resolution request is that Minnesota be given a fifth bankruptcy judge.

This letter is written to confirm that the Judicial Council of the Eighth Circuit, composed of all circuit judges and five district judges at large, firmly endorse this resolution.

As Chief Judge of the circuit, I can attest that we have a bankruptcy crisis in the middle west and in Minnesota and are in dire need of a fifth bankruptcy judge in the State of Minnesota.

If I can be of any further service to you, please let me know.

Sincerely yours,

Donald P. Lay

DONALD P. LAY

DPL/ja

cc: Judge John Connelly
Judge Donald Alsop

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
760 FEDERAL COURTS BUILDING
ST. PAUL, MINNESOTA 55101

DONALD D. ALSOP
JUDGE

February 20, 1986

Mr. David Gotlieb
Legislative Assistant
Office of Senator Rudy Boschwitz
506 Hart Building
Washington, D.C. 20510

Dear Mr. Gotlieb:

There is now pending in the United States Senate File Number 1923, designating the number of United States Bankruptcy Judgeships in the various districts throughout the country. It is my understanding that, as now drafted, the bill provides for four bankruptcy judgeships in the District of Minnesota. As you aware from the report of the Bankruptcy Laws Section of the Minnesota State Bar Association, this effectively results in the elimination of one bankruptcy judge for this district.

This letter is written to confirm that the district judges of the District of Minnesota oppose this reduction. We strongly urge and request that you use your best efforts to obtain a restoration of that judgeship so that the complement of bankruptcy judges in the District of Minnesota would remain at five.

Based upon my observations of the work habits and efforts of our bankruptcy judges, and a review of the number and complexity of cases in the bankruptcy court, it is essential to the efficient administration of justice in the bankruptcy system in this district that we be authorized five bankruptcy court judges.

If I can be of any further service to you in this regard, please feel free to contact me.

Yours very truly,

Donald D. Alsop

Donald D. Alsop
Chief Judge

United States Senate

WASHINGTON, DC 20510

February 27, 1986

The Honorable Strom Thurmond
Chairman
Committee on the Judiciary
United States Senate
SD-224
Washington, D.C. 20510

Dear Strom:

I understand that the ad hoc subcommittee on bankruptcy judges will report its recommendations to the full Judiciary Committee today and that 34 new bankruptcy judgeships will be recommended. I further understand that this recommendation will generally be based on six criteria: (1) adversary proceedings terminated with court action per judgeship, (2) total adversary proceedings terminated (with or without court action) per judgeship, (3) total hours spent per judgeship in proceedings and trials, (4) Chapter 11 filings per judgeship, (5) total filings per judgeship, and (6) modified total filings per judgeship (i.e., the sum of asset Chapter 7 filings, asset Chapter 11 filings, and 10 percent of Chapter 13 filings).

On the basis of these criteria, the Western District of North Carolina, it appears to me, should be included among the 34 new judgeships. The Western District ranks as follows in the above six categories: (1) tie for 14th, (2) 8th, (3) 9th, (4) 34th, (5) 38th and (6) tie for 18th. As you can see, the Western District is within the top 34 in five of the six categories. Moreover, in averaging all six categories the Western District ranks 20th overall.

Despite this objective showing that the Western District should receive an additional judgeship if 34 are to be created, the recommendations of the subcommittee, as I understand them, will not include another judgeship for the Western District. My staff has been advised that this anomaly stems from the fact the Western District was not originally included among the 48 new judgeships recommended by the Administrative Office of the Courts. But if the Committee is going to use a number of categories, and not

just the two used by the AO, then it should not arbitrarily exclude those jurisdictions which failed to make the AO list. Instead, it should apply the criteria it has chosen to use uniformly to all the jurisdictions in the country. In my opinion, such an approach is by far the fairest way to proceed and would be most easily defensible on the Senate floor.

Frankly, Strom, I'm not convinced that we need to create as many as 34 new bankruptcy judgeships. Given the problems of the deficit, it seems to me that we could get by on many fewer than 34. However, if we are going to have 34, then it does seem to me, on the basis of the objective criteria, that the Western District of North Carolina should get an additional judgeship. I hope you and the other members of the Committee will bear these thoughts in mind as you mark up the bankruptcy judgeships legislation today.

Thank you for your consideration of this matter.

Kindest personal regards.

Sincerely,

JESSE HELMS/ajb

Thank you, Strom.

DON NICKLES
OKLAHOMA

COMMITTEES:
ENERGY AND NATURAL RESOURCES
LABOR AND HUMAN RESOURCES
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510

March 6, 1986

The Honorable Strom Thurmond, Chairman
Committee on the Judiciary
United State Senate
Washington, D. C.

Dear Strom:

You mentioned during the Judiciary Committee's consideration of the bankruptcy judges that additional input on the staff recommendation would be welcomed in order to determine any changes that may be made in their allocation. Pursuant to that request, I am providing you with additional information on the activities of the Northern District. That district, under the staff recommendation, would not receive an additional judge but would be asked to share its case load with the Eastern District. My contention is that the staff recommendation included partial data which does not adequately reflect the current activity of the Northern District.

Data given to the Committee indicates 2,053 filings were made for the Northern District for fiscal year 1985. However, the filings for calendar year 1985 were 2,453, a substantial increase over the fiscal year filings. That same data showed 89 Chapter 11 filings for fiscal year 1985, calendar year 1985 filings were 110, again a substantial increase. Chapter 11 filings for the first five months of fiscal year 1986 have increased 52% over the same period for 1985.

The economic status of the area in the Northern District of Oklahoma is more fully shown by the explosion of bankruptcy filings in fiscal year 1986. In the Northern Judicial District in October, 1985, there was a 78.4% increase in case filings over October, 1984; in November a 55% increase; in December a 75% increase; in January, 1986, a 43% increase; in February, 1986, a 20% increase; with the increase in the first five months of fiscal year 1986 filings over the same period for 1985 being 54.4%. It is projected that 3800 cases will be filed in fiscal year 1986, including adversary filings.

It should also be mentioned that 699 adversary proceedings are presently pending as well as 3,324 cases pending with manufacturing companies, motels, trucking companies as well as oil and gas companies and oil related companies seeking relief under the Bankruptcy Code, many as recently as January and February, 1986. To put this in perspective, the proper level of adversary proceedings for the court should be only about 200.

An additional bankruptcy judge is needed in the Northern District to accomplish some semblance of timely adjudication of the problems facing that district.

Sincerely,

DON NICKLES

DN:bbm

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF OKLAHOMA

TULSA, OKLAHOMA

SUMMARY OF PENDING CASES AND PROCEEDINGS

PREPARED BY

DOROTHY A. EVANS
U. S. BANKRUPTCY CLERK

Dated: March 13, 1986

** 54.4% increase in case filings first 5 months of Fiscal Year 1986.

** 200% increase in proceedings with Court hearings over data previously utilized.

** 100% increase in modified filings over data previously utilized.

** 29% increase in motion hearings first 5 months of Fiscal Year 1986.

** 28% increase in pending adversary proceedings as of February 28, 1986.

** 23 Chapter 11 filings in FIRST TWO WEEKS of March, 1986, vs. 3 Chapter 11 cases entire month of March, 1985.

** MINIMUM PROJECTIONS: 150 Chapter 11 cases in Calendar Year 1986. Approximately 3800 total cases in Calendar Year 1986.

FACT SHEET

Attached is a compilation of proceedings with Court hearings and proceedings without Court hearings, which show proceedings with Court hearings in each case 200% over data previously utilized.

Modified filings, taken from raw data, show at least a 100% activity increase, as compared with data previously utilized.

Also attached are figures showing motions concerning lien avoidances which were actually heard (420 per year) and motions involving relief from stay which were actually heard (250+ per year).

As to Chapter 11 cases, the Court has over 200 Chapter 11 cases pending, and fiscal year 1986 will show an explosion of cases, as is evidenced by the filing of ten (10) Chapter 11 petitions in just one day (March 7, 1986) which included one Chapter 11 with approximately $1,000,000 in oil and gas runs per month, with more than 3,200 creditors and various real estate investment/brokerage firms and large office buildings in Tulsa, as well as other types of businesses. Within the last 30 days, Shangri-La Resort has filed Chapter 11 (40 million dollar complex), as well as Western Celebrity Country Club (golf club and facility, plus housing development and commercial real estate development). It is anticipated 150 Chapter 11 cases will be filed in FY 1986 and/or CY 1986. Other significant cases filed in CY 1986 include 6 real estate investment companies over one million dollars, various oil related companies (exploration, production, support), 2 construction companies over one million dollars, 4 "farmer" reorganizations, and various other businesses over one million dollars.

An indicator of increased case filings is the fact that in the first five months of fiscal year 1986, an increase of 54.4% was accomplished. If such an increase is maintained in the remaining months of FY 1986, total petitions filed during FY 1986 will total 3,776. It is anticipated that, given Oklahoma's de-

clining economy resulting from plummeting oil and gas prices, and decline in agricultural prices, there will be no decrease in case filings, but only increases from FY 1985, as is shown by the 54.4% increase.

It must be mentioned that each and every case filed in the Bankruptcy Courts must have a court proceeding of one kind or another--no matter whether the case is dismissed, converted, or fully administered. Even the simplest, cleanest, Chapter 7 (liquidation) case must have a discharge hearing, which is a type of Court proceeding. Additionally, each and every Chapter 11 case filed is likely to have at least three to ten hearings of one type or another, which are all Court proceedings. Simple numbers as to case filings do not tell the whole story. Additionally, adversary proceedings are not counted in "numbers of cases", but each adversary proceeding is a lawsuit within a case--a case in itself. These adversary proceedings, or cases, sometimes result in hour upon hour of trial and/or pretrial time. The larger the case, in most instances, the greater the number of adversary proceedings and/or "Court proceedings". As an example, a large case such as Republic Trust & Savings may give rise to as many as 500 adversary proceedings (which may or may not be able to be consolidated) and a corresponding number of hours of trial/pre-trial time. That counts as one case. A simple, no asset Chapter 7 case counts as one case also.

U. S. BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

PROCEEDINGS WITH COURT HEARINGS (Includes trials, hearings, and pre-trial conferences)

Fiscal Year 1985	300
Calendar Year 1985	323
Fiscal Year 1986 to date	131
Calendar Year 1986 to date	62

PROCEEDINGS WITHOUT COURT HEARINGS

Fiscal Year 1985	128
Calendar Year 1985	94
Fiscal Year 1986 to date	41
Calendar Year 1986 to date	5

LIEN AVOIDANCES HEARD

Fiscal Year 1985	415
Calendar Year 1985	442
Fiscal Year 1986 to date	199
Calendar Year 1986 to date	89

MOTIONS FOR RELIEF FROM STAY OR TO MODIFY STAY HEARD

Fiscal Year 1985	250
Calendar Year 1985	257
Fiscal Year 1986 to date	175
Calendar Year 1986 to date	65

MODIFIED FILINGS:

FY 1985

Ch. 7 asset cases	199
Ch. 11 asset cases	93
10% of Ch. 13's	9
TOTAL:	301

Cal. Yr. 1985

Ch. 7 asset cases	193
Ch. 11 asset cases	110
10% of Ch. 13's	10
TOTAL:	313

FY 1986 TO DATE:

Ch. 7 asset cases	37
Ch. 11 asset cases	48
10% of 13's	6
TOTAL:	91

NOTES: (1) If trend continues, FY 1986 will have total of 364 or a 17% increase in modified filings.

(2) It is impossible to tell whether or not a Chapter 7 case is an asset case or a no asset case until the Trustee involved either files a Report of No Distribution or a Report of Asset Case or a Final Accounting. Since Trustees are not required to file a Report and Inventory, the Court has no way of determining assets on its own.

BC-101
(10/79)

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

BANKRUPTCY CASES COMMENCED ON OR AFTER OCTOBER 1, 1979

MONTHLY STATISTICAL REPORT OF CLERKS OF UNITED STATES BANKRUPTCY COURTS

District Code No. 1085 Reporting Office Code No. 4 Month February 19 86

NUMBER OF BANKRUPTCY CASES		TOTAL FOR DISTRICT	Mickey D. Wilson JUDGE NAME AND CODE	JUDGE	JUDGE	JUDGE	JUDGE	JUDGE	JUDGE	JUDGE
			A301 CODE	CODE	CODE	CODE	CODE	CODE	CODE	CODE
1. Pending end of preceding month		3324								
2. Filed during this month (BC-100A)	a. New cases	206								
	b. Reopened cases	0								
	c. Cases transfer'd into District	0								
3. Terminated during this month (BC-100B)	a. Joint Petition (Rpt 1 of 2)									
	b. Terminations including Joint Petitions Report 2 of 2	180								
	c. Cases transferred out of District	1								
4. Pending end of this month		3349								
5. Docket numbers of reopened cases										
6. Docket numbers assigned to court matters for which no BC-100a forms are submitted with this report. (Ancillary Proceedings)										
7. Docket Numbers of new cases	First	00205								
	Last	00410								

Note: How to compute "Pending end of this month," (Item 4): The total of Items 1, 2a, 2b and 2c, minus the total of Items 3b and 3c, equals Item 4.

TO AVOID UNNECESSARY CORRESPONDENCE, PLEASE EXPLAIN ON THE REVERSE SIDE OF THIS FORM, ANY UNUSUAL FIGURES REPORTED.

Mail to:
Administrative Office of the United States Courts
SARD, Bankruptcy Statistics
Washington, D. C. 20544

Submitted By K. Gavagan

FTS No. 745-7181

JS 22
(Rev. 10/79)

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

BANKRUPTCY CASES FILED PRIOR TO OCTOBER 1, 1979

MONTHLY STATISTICAL REPORT OF CLERKS OF UNITED STATES BANKRUPTCY COURTS

District Code No. 1085 Reporting Office Code No. 4 Month February 19 86

NUMBER OF BANKRUPTCY CASES		TOTAL FOR DISTRICT	Mickey D. Wilson JUDGE NAME AND CODE: JUDGE 04 CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE
1. Pending end of preceding month		79							
2. Reopened or transferred during this month	BK-74B	0							
3. Terminated or transferred out during this month	BK-74A	0							
4. Pending end of this month		79							
5. Converted to a different chapter		0							
6. Docket numbers of reopened cases		0							
7. Number of closing reports transmitted	J.S. 18	0							
	BK 78	0							
	BK 74A and/or BK 74R	0							
8. Numbers assigned ancillary matters									

TO AVOID UNNECESSARY CORRESPONDENCE PLEASE EXPLAIN ON THE REVERSE SIDE OF THIS FORM, ANY UNUSUAL FIGURES REPORTED.

Mail to:
Administrative Office of the United States Courts
SARO, Bankruptcy Statistics
Washington, D.C. 20544

Submitted By K. Cavagan

FTS No. 745-7181

FM-540—11-12-80—540-4760

BC 109
(Rev. 6/84)
(Code 1)

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

MONTHLY REPORT OF PROCEEDINGS BY THE CLERKS OF THE UNITED STATES BANKRUPTCY COURTS

District Code No. 1085 Month FEBRUARY 19 86

NUMBER OF PROCEEDINGS	TOTAL FOR DISTRICT	JUDGE NAME AND CODE						
		Wilson / A301 (JUDGE / CODE)	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE
1. Proceedings pending at the close of preceding month	728	728						
2. Total proceedings filed during this month	24	24						
3. Total proceedings terminated this month	53	53						
4. Within District Transfers Between Judges (See Note Below)	[illegible]	0						
5. Proceedings pending at close of this month	699	699						
6. Numbers assigned to court matters for which no BC-5 forms are submitted with this report	0	0						
7. Docket numbers of new proceedings — First	86-0033	*Note:* For item 4: Under the appropriate "Judge/Code" column, enter the number of proceedings that have either been transferred to or transferred from that judge within the district during the reporting period. It is not necessary to enter a total in the "Total for District" space. To compute item 5 for each judge: The total of items 1 and 2 minus item 3 plus (or minus) item 4 equals item 5. To compute item 5 for the total for the district: The total of items 1 and 2 minus item 3 equals item 5.						
Last	86-0056							

REMARKS SECTION:

TO AVOID UNNECESSARY CORRESPONDENCE PLEASE EXPLAIN IN THE REMARKS SECTION ON THIS FORM, ANY UNUSUAL FIGURES REPORTED.

MAIL TO:
Administrative Office of the United States Courts
SARD, Bankruptcy Statistics
Washington, D.C. 20544

Submitted By: Sandra L. Jackson

FTS No.: 745-7181

BC 109
(Rev. 6/93)
(Side 2)

MONTHLY REPORT OF MOTIONS REQUESTING RELIEF FROM THE AUTOMATIC STAY AND SECTION 522 (f)
MOTIONS TO AVOID LIENS (Pursuant to Rules of Bankruptcy Procedure 4001(a) and 4003(d))

NUMBER OF MOTIONS		TOTAL FOR DISTRICT	JUDGE NAME AND CODE						
			WILSON JUDGE A301 CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE
1. Pending end of preceding month	a. Motion for Relief from Stay	351	351						
	b. Motion to Avoid Lien	295	295						
2. Filed during this month	a. Motion for Relief from Stay	98	98						
	b. Motion to Avoid Lien	32	32						
3. Terminated during this month	a. Motion for Relief from Stay	90	90						
	b. Motion to Avoid Lien	44	44						
4. Within District Transfers (Between Judges) (See Note Below)	a. Motion for Relief from Stay	0	0						
	b. Motion to Avoid Lien	0	0						
5. Pending end of this month	a. Motion for Relief from Stay	359	359						
	b. Motion to Avoid Lien	283	283						

Note: For item 4: Under the appropriate "Judge/Code" column, enter the number of motions that have either been transferred to or transferred from that judge within the district during the reporting period. It is not necessary to enter a total in the "Total for District" space. To compute item 5a for each judge: The total of items 1a and 2a minus item 3a plus (or minus) item 4a equals item 5a. To compute item 5b for each judge: The total of items 1b and 2b minus item 3b plus (or minus) item 4b equals item 5b. To compute items 5a or 5b for the total for the district: Same as above, but do not include items 4a or 4b (the shaded portion) in the computations.

REMARKS SECTION:

TO AVOID UNNECESSARY CORRESPONDENCE PLEASE EXPLAIN IN THE REMARKS SECTION ON THIS FORM, ANY UNUSUAL FIGURES REPORTED.

BC 109
(Rev. 6/83)
(Side 1)

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

MONTHLY REPORT OF PROCEEDINGS BY THE CLERKS OF THE UNITED STATES BANKRUPTCY COURTS

District Code No. 1085 Month JANUARY 19 86

NUMBER OF PROCEEDINGS	TOTAL FOR DISTRICT	JUDGE NAME AND CODE: WILSON / A301	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE	JUDGE / CODE
1. Proceedings pending at the close of preceding month	711	711						
2. Total proceedings filed during this month	32	32						
3. Total proceedings terminated this month	15	15						
4. Within District Transfers Between Judges (See Note Below)	0	0						
5. Proceedings pending at close of this month	728	728						
6. Numbers assigned to court matters for which no BC-5 forms are submitted with this report	0	0						
7. Docket numbers of new proceedings — First	86-0001							
7. Docket numbers of new proceedings — Last	86-0032							

Note: For item 4: Under the appropriate "Judge/Code" column, enter the number of proceedings that have either been transferred to or transferred from that judge within the district during the reporting period. It is not necessary to enter a total in the "Total for District" space. To compute item 5 for each judge: The total of items 1 and 2 minus item 3 plus (or minus) item 4 equals item 5. To compute item 5 for the total for the district: The total of items 1 and 2 minus item 3 equals item 5.

REMARKS SECTION:

TO AVOID UNNECESSARY CORRESPONDENCE PLEASE EXPLAIN IN THE REMARKS SECTION ON THIS FORM, ANY UNUSUAL FIGURES REPORTED.

MAIL TO:
Administrative Office of the United States Courts
BARD, Bankruptcy Statistics
Washington, D.C. 20544

Submitted By: Sandra L. Jackson

FTS No.: 745-7181

BC 109
(Rev. 6/83)
(Sheet 2)

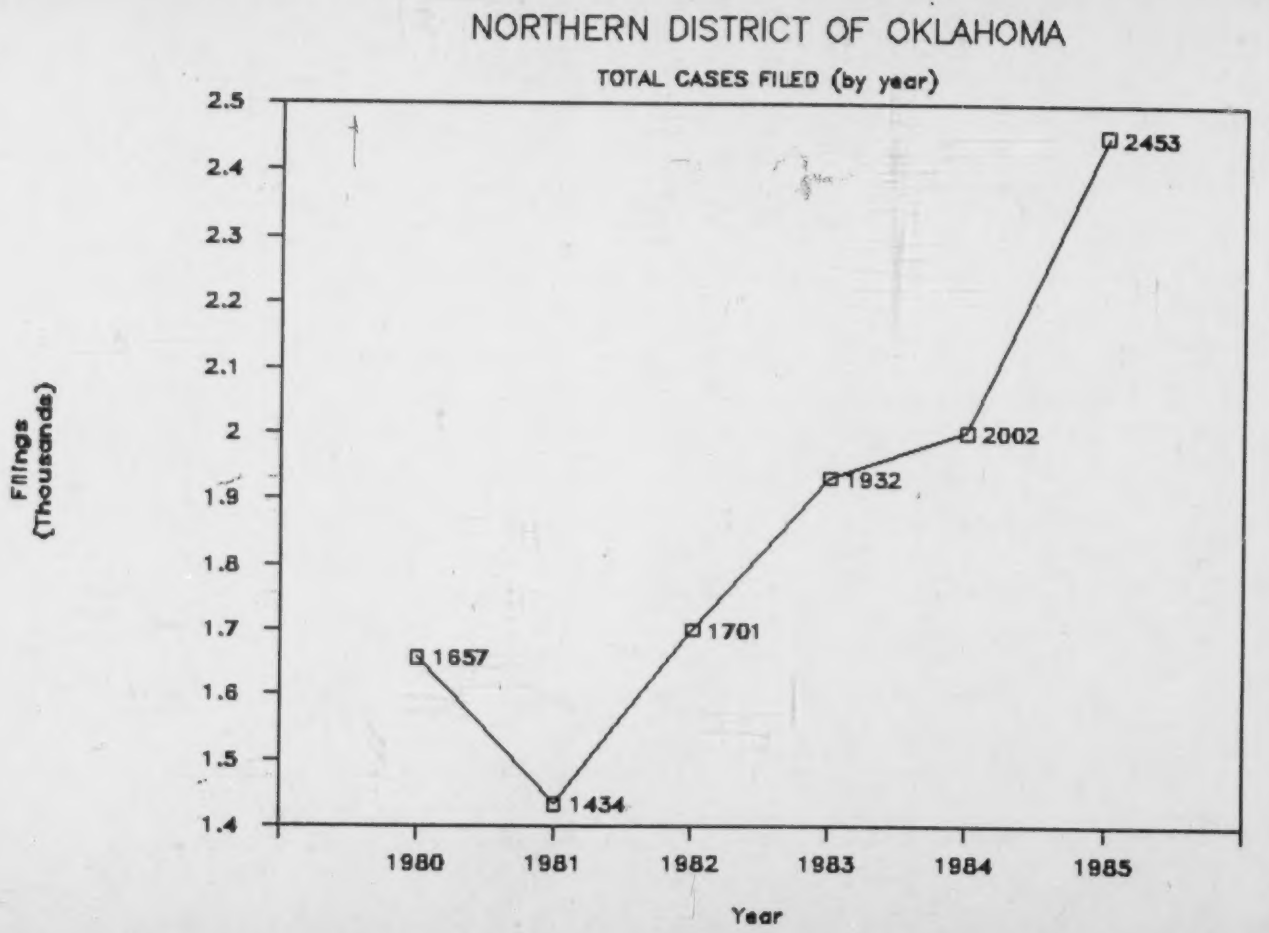
MONTHLY REPORT OF MOTIONS REQUESTING RELIEF FROM THE AUTOMATIC STAY AND SECTION 522 (f)
MOTIONS TO AVOID LIENS (Pursuant to Rules of Bankruptcy Procedure 4001(a) and 4003(d))

NUMBER OF MOTIONS		TOTAL FOR DISTRICT	JUDGE NAME AND CODE						
			WILSON JUDGE A301 CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE	JUDGE CODE
1. Pending end of preceding month	a. Motion for Relief from Stay	337	337						
	b. Motion to Avoid Lien	283	283						
2. Filed during this month	a. Motion for Relief from Stay	96	96						
	b. Motion to Avoid Lien	57	57						
3. Terminated during this month	a. Motion for Relief from Stay	82	82						
	b. Motion to Avoid Lien	45	45						
4. Within District Transfers (Between Judges) (See Note Below)	a. Motion for Relief from Stay	ø	ø						
	b. Motion to Avoid Lien	ø	ø						
5. Pending end of this month	a. Motion for Relief from Stay	351	351						
	b. Motion to Avoid Lien	295	295						

Note: For item 4: Under the appropriate "Judge/Code" column, enter the number of motions that have either been transferred to or transferred from that judge within the district during the reporting period. It is not necessary to enter a total in the "Total for District" space. To compute item 5a for each judge: The total of items 1a and 2a minus item 3a plus (or minus) item 4a equals item 5a. To compute item 5b for each judge: The total of items 1b and 2b minus item 3b plus (or minus) item 4b equals item 5b. To compute items 5a or 5b for the total for the district: Same as above, but do not include items 4a or 4b (the shaded portion) in the computations.

REMARKS SECTION:

TO AVOID UNNECESSARY CORRESPONDENCE PLEASE EXPLAIN IN THE REMARKS SECTION ON THIS FORM, ANY UNUSUAL FIGURES REPORTED.


NORTHERN DISTRICT OF OKLAHOMA
TOTAL CASES FILED (by year)
Filings (Thousands)
2.5
2.4
2.3
2.2
2.1
2
1.9
1.8
1.7
1.6
1.5
1.4
1657
1434
1701
1932
2002
2453
1980
1981
1982
1983
1984
1985
Year

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

MONTHLY STATISTICAL REPORT OF
CASES COMMENCED DURING 1986

MONTH	CASES OPENED	CHAPTER 7	CHAPTER 11	CHAPTER 13	ENTITIES	BUSINESS
JAN	204	184	7	13	305	45
FEB	206	188	9	9	317	43
MAR						
APR						
MAY						
JUN						
JUL						
AUG						
SEP						
OCT						
NOV						
DEC						
TOTAL	410	372	16	22	622	88

COMPARISON OF JAN. 1, 1986 THRU FEB. 28, 1986
WITH THE
SAME PERIOD OF 1985

1986	410	372	16	22	622	88
1985	314	131	13	18	466	96
DIFFERENCE	96	241	3	4	156	-8

30.6%
INCREASE IN CASE FILINGS

COMPARISON OF FEBRUARY, 1986
VS. FEBRUARY, 1985

1986	206	188	9	9	317	43
1985	172	152	11	9	258	42
DIFFERENCE	34	36	-2	0	59	1

19.8%
INCREASE IN CASE FILINGS

BOB PACKWOOD
OREGON

United States Senate

WASHINGTON, DC 20510

February 26, 1986

The Honorable Strom Thurmond
Chairman, Senate Judiciary Committee
U.S. Senate
Washington, DC 20510

Dear Strom:

We understand that the first item on the Senate Judiciary Committee's agenda for Thursday, February 27, 1986 is S. 1923, a bill to authorize 48 bankruptcy judgeship positions that were recommended by the Judicial Conference of the United States. We are writing to urge you to maintain the bill's authorization for a fifth bankruptcy position for the district of Oregon.

Oregon's request has certain unique features which we request be made a part of the official record of the Judiciary Committee's consideration of S. 1923. Therefore, we respectfully ask that this letter be made a part of the committee record.

First, Oregon is one of only three districts who would actually lose a presently sitting judge if the Judicial Conference's recommendations are not accepted. (Illinois-Central and Michigan-Western are the other two). Oregon's current part-time bankruptcy position will terminate by operation of law if no legislation is passed prior to July 10, 1986.

While the bankruptcy case load in Oregon increased another 28% in 1985 over the previous record high level set in 1984, the case load per judge may not appear terribly excessive in comparison to some other districts. Cold numbers do not, however, tell the entire story. There are additional factors unique to Oregon which dictate that the present number of judgeships not be reduced.

Those critical factors are:

1. The burdens created by travel throughout one of the largest geographic districts in the nation. Travel time averages eleven court days a month. More than fifty hours of bankruptcy judge time is consumed in nonproductive round-trip travel.

2. The complex nature of Chapter 11 cases filed. Statistics for the Ninth Circuit show that while on the average, 17% of Chapter 11 cases are consumer types, in Oregon this figure is only 2%.

3. Oregon's poor economic prognosis. The Oregon Legal Services Corporation reports that bankruptcy advice to people requesting assistance quadrupled from 1981-1984. Assistance in the first quarter of 1985 almost equaled the total level in 1984.

4. The negligible increased cost to the government. The only additional governmental cost would be one-half of a bankruptcy judge's salary.

As further evidence of the unique conditions surrounding Oregon's need for a fifth full-time bankruptcy judge position, we have attached two letters:

1. June 5, 1985 letter from the Honorable Owen M. Panner, Chief Judge, U.S. District Court of the District of Oregon to Judge DeMascio, Chairman of the Bankruptcy Committee of the Judicial Conference.

2. May 1, 1985 letter from The Honorable Henry L. Hess, Jr., Chief Bankruptcy Judge for the District of Oregon to the Honorable James R. Browning, Chief Judge of Ninth Circuit Court of Appeals.

If we can provide you or any other members of the Judiciary Committee with additional information, please do not hesitate to call us or members of our staff, Cathy Shine at 224-5086 and Craig Higgins at 224-3753. We cannot emphasize enough our support for S. 1923 which authorizes continuation of the fifth bankruptcy judgeship for Oregon.

Thank you for your consideration in this matter.

Sincerely,

MARK O. HATFIELD

BOB PACKWOOD

cc: Senate Judiciary Committee Members
The Honorable Owen Panner
The Honorable Robert E. DeMascio
The Honorable Henry L. Hess, Jr.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON
900 ORBANCO BUILDING
1001 S W 5TH AVENUE
PORTLAND OREGON 97204

HENRY L. HESS JR.
BANKRUPTCY JUDGE

503-221-4188
FTS 423-4188

May 1, 1985

Honorable James R. Browning
Chief Judge, U. S. Court of Appeals
P. O. Box 547
U. S. Court of Appeals & Post Office Bldg.
San Francisco, California 94101

Re: Bankruptcy Judge Survey

Dear Judge Browning:

This is in reference to the letter of April 10, 1985 addressed to you by Judge DeMascio concerning the recommendations of the Bankruptcy Committee of the Judicial Conference concerning the number of bankruptcy judgeships needed in the district courts of the Ninth Circuit.

The 1984 Act authorized four positions for the District of Oregon. The 1982 survey recommended that there be five positions. Judge DeMascio states that the Bankruptcy Committee does not recommend an increase over the four positions authorized by the 1984 Act.

Prior to July 1961 the District of Oregon was served by three full time bankruptcy judges and one part time. In that year an additional full time position was authorized. Since then Oregon has, except for a brief period, been served by four full time and one part time bankruptcy judge. It would be untenable to eliminate the services of the present part time judge and require that the workload of this judge be shouldered by the remaining four judges.

Thus, the question is not merely whether there should be an increase in the number of present positions but whether there should be a decrease. The part time position will expire under the 1984 Act in July of 1986 unless the number of present positions is changed from four and one half to five.

Oregon case filings in recent years, as shown by the statistical reports of the Administrative Office, have increased more or less steadily to the present time:

Year Ending	Number of Cases Filed
1978	3295
1979	3962
1980	4913
1981	6115
1982	5649
1983	5867
1984	6148

Filings nationally in 1984 were down approximately 1% from those in 1983. During that year the filings in Oregon increased by 4.8%. In the first four months of 1985 the filings in Oregon are up over 3% above the same period in 1984. In this same four month period business filings are up 25%.

Oregon's "economic recovery" is something that has not yet occurred. Three of the major industries of Oregon, timber, agriculture and fishing are extremely depressed and there appears to be no relief in the foreseeable future. Failures in these industries undoubtedly have contributed to the increase in filings in Oregon. We expect that we will continue to see increases in debtors seeking relief through straight bankruptcies and reorganizations.

Based on the 1984 filings the case load per bankruptcy judge in Oregon would be 1537 if Oregon is served by only four judges. If the recommendations of the Bankruptcy Committee regarding the number of authorized positions were adopted, there would be one district in the Ninth Circuit which would have a higher case load and eleven with a lower case load. If Oregon had five judges the case load would be 1230 per judge. There would be seven districts with a higher case load and five with a lower case load.

Another significant factor concerning judicial workload in Oregon is the amount of travel required. The following are official places of holding court and the one-way distances which are served by the Portland and Eugene offices:

Portland	Mileage One-Way
Bend	160
Corvallis	89
La Grande	259
Lincoln City	88
Pendleton	208
Salem	50
Seaside	79
The Dalles	83
Tillamook	74
Eugene	
Coos Bay	116
Klamath Falls	173
Medford	166
Roseburg	71

Travel to these official places of holding court is statutorily mandated.

Following is a chart to detail the average monthly hours spent in traveling to serve these locations.

LOCATION	FREQUENCY PER MO.	COURT DAYS PER VISIT	ROUND TRIP TRAVEL HOURS PER TRIP	AVERAGE MONTHLY TRAVEL HOURS
PORTLAND OFFICE				
Bend	1.0	2	9.5	9.5
Pendleton (LaGrande)	0.75	2	14.0	10.5
Lincoln City	.5	1	5.0	2.5
Salem	1.0	1	4.0	4.0
Seaside	0.5	1	5.0	2.5
The Dalles	0.5	1	5.0	2.5
EUGENE OFFICE				
Coos Bay-Roseburg	1.0	2	7.0	7.0
Klamath Falls	0.5	1	9.0	4.5
Medford	1.0	3	9.0	9.0
TOTALS:	7.75	14	67.50	52.0

In preparing the travel time chart above, I should point out that "a court day" does not necessarily mean that the judge spends one complete day on the bench. It may be that the judge spends three or four hours on the bench at a particular location. The distances between each location are such however, that it is not practicable to sit in more than one location in any one day, particularly since it is seldom possible to determine, with complete accuracy, how long matters to be heard in one location will last. In addition, many of the locations provide rather make-shift courtroom facilities, such as a city council chambers or an abandoned state courtroom, etc. Often, the traveling judge does not have a "chambers" at the out of town location where the judge could be working during non-bench hours. When a last minute settlement of

a case occurs at the headquarters of a judge, the judge can utilize this time in working on other cases. This is not true when the judge is away from his headquarters. Thus, judicial time on the road is, necessarily, less efficient than time spent by a judge at his principal duty station.

The total number of round-trip travel hours used to reach each destination includes an allowance for the packing and unpacking of briefcases, set up of the courtroom in out of town locations, foot travel to and from automobile, etc. The travel time encompasses a monthly average of 11 court days. More than 50 hours of bankruptcy judge time is consumed in round-trip travel alone, exclusive of the actual bench time spent in each location.

It is probably safe to say that it requires two to three times as much time to hear and decide matters out of town as it would if such matters were heard and decided, either in Portland or Eugene. If you assume that there are normally 20 working days each month to hear matters, then the district has a total of 90 working days each month from the four and one-half judges currently serving the district. Travel consumes more than 12% of this time or approximately one-half of the working days available from a single judge.

We have reduced our frequency of travel to certain locations due to the expanded case load. We now travel only infrequently to La Grande, Tillamook and Corvallis. In addition, we travel (on the average) only once every two months to the following locations: Lincoln City, Seaside, The Dalles and Klamath Falls.

While it is true that we could reduce our travel time further by visiting each location less frequently, there are two concerns that should be pointed out. First, the bar, debtors and creditors around the district have become accustomed to a certain level of service from the bankruptcy court. A reduction in the amount of travel would necessarily mean that these parties would be receiving a reduced level of service from the court. Second, and perhaps most important, each bankruptcy case is a financial hardship case. Usually the debtors, whether they are individuals or business concerns, are in desperate financial condition. Their creditors expect to receive something less than a full payment of their claims which, under non-bankruptcy law, would be valid legitimate claims entitled to full payment. Many of the unsecured creditors are individuals, wage claimants, or small business concerns. A reduction in the amount of court travel would force debtors and creditors to spend more money on each bankruptcy case since they would be put to the inconvenience and expense of attending court in either Portland or Eugene. Fees paid to their attorneys would be drastically increased since they would be required to pay their attorney to travel to court as well. Thus, in cases where a financial hardship already exists, the situation would be aggravated by a reduction of court travel. This would make it more difficult for debtors to file and prosecute bankruptcy cases and it would become more difficult for creditors to have their concerns heard by the court.

Our current part-time judge, Albert Radcliffe, informs me that he spends over 30 hours per week in the performance of his judicial duties. He is currently responsible for and holds court in Roseburg, Coos Bay and Klamath Falls, as well as in his headquarters in Eugene. A loss of this position would require a significant reallocation of travel duties among the remaining judges. In addition, it would leave only one full-time bankruptcy judge sitting in the divisional office at Eugene. It is not possible for one judge to handle all of the work load generated by the Eugene divisional office on an acceptable level. In all practicality, this would require considerable assistance from the three judges currently serving the Portland main office. The level of service offered by the bankruptcy court to debtors and creditors throughout the district would, of necessity, be significantly reduced. I anticipate that it would take longer to process cases and adversary proceedings.

The Bankruptcy Reform Act of 1978 substantially increased the jurisdiction of bankruptcy courts. The bankruptcy courts were authorized to try and to dispose of matters which had not been within the summary jurisdiction of the bankruptcy courts under the old Act. The Marathon case which became effective on December 24, 1983 held that at least some of this expanded jurisdiction was unconstitutional. The bankruptcy courts then operated under the emergency rule until the Bankruptcy Amendments of 1984 were enacted on July 10, 1984.

In practical effect the Marathon case, the emergency rule and the 1984 Amendements did not and will not decrease the work of the bankruptcy courts. In fact they have an opposite effect. While bankruptcy courts now have jurisdiction only over "core" proceedings, absent consent of the litigants, nonetheless bankruptcy courts will continue to try, with only infrequent exceptions, what are now denominated "related proceedings." The latter will be, under reference rules, tried in the bankruptcy court followed by proposed findings and orders submitted to the district court. The preparation of such findings for submission to the district court will consume additional time which was not required prior to Marathon. In addition, the bankruptcy courts will be hearing disputes over jurisdiction which did not exist prior to Marathon.

The only significant cost which would be increased over the present by upgrading the part-time position to full-time would be the increase in salary of the judge. Judge Radcliffe is presently served by a full-time secretary and a full-time law clerk. Therefore the position could be upgraded at relatively low cost.

It is expected that unless the part-time position is upgraded at this time, it probably would be six or eight years before another position for the District of Oregon could be obtained. Given the history of steadily increasing bankruptcy filings in Oregon, and no reason to believe that they will decline in the foreseeable future, it appears to make more sense to now upgrade the part-time position than to eliminate it.

To summarize, in addition to the statistical justification for five positions in the District of Oregon, there are the additional factors applicable in Oregon of time spent in travel, Oregon's depressed economy, the relatively small cost involved, and the time which would be involved to obtain another position in the future, all of which dictates that the part-time position should be upgraded to full-time rather than be eliminated.

The Ninth Circuit Judicial Council has already recommended that Oregon be served by five full-time bankruptcy judges. We respectfully request that you urge Judge DeMascio's Bankruptcy Committee to reconsider its report of April 10, 1985 and that the Committee recommend to the Judicial Conference authorization for five full-time positions.

Respectfully yours,

Henry L. Hess, Jr.
Chief Bankruptcy Judge
District of Oregon

HLH/ld

cc: Honorable Owen M. Panner,
Chief Judge
U. S. District Cout for
the District of Oregon

William A. Davis,
Circuit Executive

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
UNITED STATES COURTHOUSE
PORTLAND, OREGON 97205

CHAMBERS OF
OWEN M. PANNER, CHIEF JUDGE

June 5, 1985

Honorable Robert E. DeMascio
United States District Judge
Eastern District of Michigan
707 U.S. Courthouse
Detroit, Michigan 48226

RE: Bankruptcy Judgeship Survey With Regard To the District of Oregon

Dear Judge DeMascio:

I write to urge your Committee's favorable consideration of the Ninth Circuit Council's recommendation for a fifth bankruptcy judgeship in Oregon. Elimination of the existing half-time position would work real hardship on the bankruptcy judges, district judges, Oregon State Bar, and the general public.

The incumbent is presently working over thirty hours per week. If the position is eliminated, the other four judges would have to absorb this load.

Since July 1961 our district has had four full-time bankruptcy judges and one part-time judge. From 1980 thru 1982, we were without the part-time judge. Even with capable, active judges, we had serious problems. We are still suffering from the backlog that was created, and the adverse reactions of the Bar and public in the Eugene area. Our caseload has increased substantially since then.

Five areas illustrate the need:

1. The burdens created by travel in a large district;

2. The complex nature of Chapter 11 cases filed;

3. Oregon's poor economic prognosis;

4. The negligible increased cost to the government; and

5. Other miscellaneous considerations.

TRAVEL BURDEN:

Oregon judges must devote a significant portion of their time to travel. Congressional mandate requires four nonheadquarter locations for hearings: Coquille/Coos Bay, Klamath Falls, Medford, and Pendleton. Geographic realities, as noted by the Director of the Administrative Office in his 1982 recommendations pursuant to section 406 of Public Law 95-598 (see attached Exhibit "A") and supported by filing statistics, require visitation of six other cities with varying degrees of frequency. Most of the statements in the Director's report concerning statistical justification are low, but remain proportionately accurate. However, one area has substantially changed. The depressed timber industry has devastated the southwestern part of the state thereby necessitating judicial visitations for three days a month in Medford. Also for clarification, Salem is the State Capitol and that general area generated 805 filings in 1984.

Following is a chart to detail the average monthly hours required to simply travel to these locations:

LOCATION	FREQUENCY PER YR.	CT. DAYS PER VISIT	MILEAGE ROUND TRIP	ROUND TRIP TRAVEL HRS. PER TRIP	AVERAGE MONTHLY TRAVEL HRS.
PORTLAND OFFICE					
Bend	1.00	2	320	9.50	9.50
Pendleton (LaGrande)	0.75	2	416 (568)	14.00	10.50
Lincoln City	0.50	1	176	5.00	2.50
Salem	1.00	1	100	4.00	4.00
Seaside	0.50	1	158	5.00	2.50
The Dalles	0.50	1	166	5.00	2.50
EUGENE OFFICE					
Coos Bay/ Roseburg	1.00	2	250	7.00	7.00
Klamath Falls	0.50	1	346	9.00	4.50
Medford	1.00	3	332	9.00	9.00
TOTAL:					52.00

In preparing the travel time chart above, I should point out that "a court day" does not necessarily mean that the judge spends three or four hours on the bench at a particular location. The distances between each location are such, however, that it is not practicable to sit in more than one location in any one day, particularly since it is seldom possible to determine, with complete accuracy, how long matters to be heard in one location will last. In addition, many of the locations provide make-shift courtroom facilities, such as a city council chambers or an abandoned state courtroom. Often, the traveling judge does not have chambers to work during nonbench hours.

When a last minute settlement of a case occurs at the headquarters of a judge, the time can be utilized. This is not true when the judge is away from his headquarters. Judicial time on the road is less efficient.

The travel time averages eleven court days a month. More than fifty hours of bankruptcy judge time is consumed in nonproductive round-trip travel alone, exclusive of the actual bench time in each location.

It is probably safe to say that it requires two to three times as much time to hear and decide matters out-of-town as it would if such matters were heard and decided either in Portland or Eugene. If you assume that there are normally twenty working days each month to hear matters, the district has a total of ninety working days each month from the four and one-half judges currently serving the district. Travel consumes more than 12% of this time or approximately one-half of the working days available from a single judge.

We realize the need to minimize travel wherever possible. As a result, there is extensive use of telephone conference calls. Frequency of travel to certain locations has been markedly reduced. Travel to Tillamook and Corvallis has been eliminated, and travel to LaGrande is rare. We ordinarily travel only once every two months to Lincoln City, Seaside, The Dalles, and Klamath Falls.

While we could reduce our travel time further by visiting each location less frequently, there are three concerns that should be pointed out. Four locations are

required by congressional mandate. The Bar, debtors, and creditors around the district have become accustomed to a reasonable level of service from the Bankruptcy Court. A reduction in the amount of travel would necessarily mean that these parties would be receiving a reduced level of service from the court, and we again know from experience this would result in congressional inquiry.

Perhaps a most important concern is that each bankruptcy case involves financial hardship to creditors, as well as debtors, whether individuals or businesses. Creditors expect to receive something less than full payment. Many are unsecured individuals, wage claimants, or small businesses.

We know from experience it is not possible for one judge to handle the work load generated by the Eugene division office on an acceptable level. Considerable assistance would be required from the three judges currently serving the Portland main office. This would mean more travel and less service. It would take longer to process cases and adversary proceedings. Each "visiting" judge must be educated about cases requiring immediate action and is often forced to make decisions with limited preparation and file access.

As you know, bankruptcy matters frequently require immediate decisions on emergency matters such as motions to temporarily restrain the Internal Revenue Service from locking up a business, to allow use of a secured creditor's cash collateral to help meet a payroll, to restrain a creditor from repossessing certain pieces of critical machinery, or to provide feed for undernourished dairy cattle.

Our current part-time judge spends over thirty hours per week and is responsible for and holds court in Roseburg, Coos Bay, and Klamath Falls, as well as in his headquarters in Eugene. A loss of this position would leave only one full-time bankruptcy judge sitting in Eugene. The remaining three judges would be required to add almost a week's work to their current schedules. They would be required to travel 120 miles to Eugene to begin.

COMPLEXITY OF CHAPTER 11 CASES:

Many jurisdictions have a substantial number of "consumer" type Chapter 11 cases. We have a high percentage of more complicated business cases because of the limitations in Chapter 13 requiring a debtor whose secured debt exceeds $350,000 to file a Chapter 11 proceeding. Consumer Chapter 11 cases are rarely involved with the issues of cash collateral, adequate protection, complex relief from stay, credit, secured transactions, subordination, and tax issues. In business cases, hostile creditors frequently request conversion, dismissal or appointment of a trustee. To prepare for hearings of this nature, a judge must usually review extensive financial information, as well as be familiar with all aspects of the case. Disclosure statements and plans take longer to review and usually present unique approval and confirmation issues. Consumer cases rarely have complicated buy out or stock purchase or repurchase complications. Attempts to reject a collective bargaining agreement are unlikely in consumer cases.

A quotation from the June, 1985 issue of Esquire magazine under the heading of "Chapter 11" states that, ". . . Oregon has the highest business failure rate, at 447 per 10,000 listed concerns; that's higher than the failure rates of New York, New Jersey, Pennsylvania, and California combined. . . ." Statistics for the Ninth Circuit show that while on the average, 17% of Chapter 11 cases are consumer

types, in Oregon this figure is only .2%. Therefore while it may appear from cold numbers the Chapter 11 work load per capita is smaller in this district than in others, it is readily apparent that figure is misleading.

A significant number of Oregon's bankruptcy cases originate from outside the Portland metropolitan area. For example, in 1984 59% of Chapter 11 cases were filed outside of this area. Debtors and creditors from outlying areas are frequently represented by counsel having little familiarity with bankruptcy law. As a result, successful negotiations are less common, the court is often faced with peculiar legal arguments, repetitive hearings are often necessary to resolve matters due to problems unforeseen or inadequately addressed by counsel, and the necessity for and length of judicial explanations increases.

POOR ECONOMIC PROGNOSIS:

Oregon expects an increasing burden from bankruptcy filings as the result of continued unfavorable economic trends.

Our case filings in recent years, as shown by the statistical reports of the Administrative Office, have increased more or less steadily to the present time:

Year Ending	Number Of Cases Filed
1978	3295
1979	3962
1980	4913
1981	6115*/
1982	5649
1983	5867
1984	6148

Filings nationally in 1984 were down approximately 1% from those in 1983. However, during that year the filings in Oregon increased by 4.8%. In the first four months of 1985 the filings in Oregon are up over 3% above the same period in 1984. In this same four month period business filings are up 25%.

Oregon's "economic recovery" is something that has neither occurred nor is it anticipated in the near future. Three of the major industries of Oregon -- timber, agriculture, and fishing -- are depressed and there is no relief in sight. Most of the following industrial information was provided by a representative of the State of Oregon Employment Division.

Lumber and wood products are Oregon's most significant manufacturing industry. It is experiencing, and experts estimate it will continue to experience, economic depression caused by factors such as a dramatic increase in Canadian lumber imports, competition from the southeastern states which have cheaper transportation costs, high raw market material costs, high production, and management

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*/ The unusually high number of cases in 1981 is partially attributed to the law enacted by the state legislature in that year "opting out" of the more favorable federal exemptions.

costs, low demand, and tightened restrictions in foreign countries on the ability to import timber. President Reagan's new tax program may also have a significant adverse impact. Certain tax benefits, such as favorable capital gains provisions granted to the timber industry to promote its survival, may be eliminated under the President's plan.

Agriculture is Oregon's second largest industry. It faces serious problems. For some years government policy encouraged farmers to invest in land and machinery and to improve production. In the last few years that policy has changed. Foreign markets have contracted, costs of production have increased, and net income has decreased. Land values have gone down and many farmers are finding it difficult to obtain current financing and to service long-term debt. Significant numbers of farmers are seeking relief under Chapter 11. It is doubtful that Congress will enact significant legislation to rescue the failing farmer.

The fishing industry continues to be adversely affected by fish depletion caused both by nature and by other countries fishing closer to our shores.

There is a moderate but uncertain increase in the high technology industry. The June 4, 1985 issue of the Oregonian reported, "Computer giant scrapping plans for Oregon plant." Those employed in this industry will generally earn significantly less than they earned in previous jobs. High tech workers are likely to be compensated closer to the minimum wage. Employees in the timber industry typically earn more than twice the minimum wage.

The Oregon Legal Services Corporation, which serves much of rural Oregon, reports that bankruptcy advice to people requesting assistance quadrupled from 1981 to 1984. Assistance in the first quarter of 1985 was almost as frequent as in all of 1984.

MINIMAL INCREASE COST TO THE GOVERNMENT:

Retention of the fifth judicial position and upgrading it to full-time would require a minimal cost increase to the government. Due to the incumbent's heavy work load he has already been authorized a full-time secretary, full-time law clerk, and physical space for chambers and offices. He also has a small courtroom next to the one used by the current full-time judge. The only additional governmental cost would be one-half of a bankruptcy judge's salary.

The costs of eliminating the present position are incalculable in dollars. They include economic costs of the parties from travel, time loss, delayed justice, and hasty decisions. They include increased appellate costs and dissatisfaction of the Bar and the public.

MISCELLANEOUS:

In some districts where the bankruptcy load is oppressive district judges are assisting. While our district judges would be willing to assist, we are under heavy pressure. The Ninth Circuit Council and Judicial Conference have both recommended that Oregon be authorized an additional district judge.

It is unlikely that the Bankruptcy Amendments of 1984 will decrease the work of the bankruptcy courts. While bankruptcy courts now have jurisdiction only over "core" proceedings absent consent of the litigants, they will continue to try many "related proceedings" by consent and by

reference with proposed findings and orders submitted to the district court. In addition there will be disputes over jurisdiction which did not exist prior to Marathon.

In summary, Oregon's past and present judicial experience has shown that five bankruptcy judges are essential. We request a visit by a Committee representative and will be glad to answer any questions which you may have.

Respectfully,

Owen M. Panner
Chief Judge

OMP/cjb
Enclosure: Exhibit "A"

cc: Senator Mark O. Hatfield
Senator Robert Packwood
Representative Les AuCoin
Representative Ron Wyden
Representative Jim Weaver
Representative Denny Smith
Representative Bob Smith
Honorable James R. Browning
Honorable Otto R. Skopil, Jr.
Honorable John F. Kilkenny
Honorable Robert R. Merhige, Jr.
Honorable G. Thomas Eisele
Honorable James H. Hancock
Honorable Joseph F. Weis, Jr.
Honorable T. Glover Roberts
Honorable Constance Baker Motley
Honorable Zita L. Weinshienk
Honorable G. William Brown
Honorable Robert W. Skidmore
Honorable Henry Hess
William E. Davis, Ninth Circuit Executive
(w/Enclosure)

Report of
The Director of the Administrative Office
of the United States Courts
to the Judicial Conference of the United States
Pursuant to Section 406 of Public Law 95-598

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF OREGON

RECOMMENDATIONS

1.	Number of judges:	Five (5)
2.	Locations of headquarters:	Eugene (2) Portland (3)
3.	Places of holding court:	Bend Coos Bay Eugene Klamath Falls Le Grand Lincoln City Medford Pendleton Portland Roseburg Salem Seaside The Dalles

4. Territory served:

The District of Oregon as described in 28 U.S.C. §117

EFFECT OF RECOMMENDATIONS

Changes from the present organization:

1. Increase in the number of judges by one
2. Elimination of Tillamook and Albany as places of holding court
3. Substitutes Seaside for Astoria as a place of holding court

EXHIBIT "A"

BASIS FOR RECOMMENDATIONS

Number of judges

Estate Filings	Between 1975 and 1979, the five years preceding the effective date of the Code, bankruptcy estate filings averaged 3,760 per year including 7 business reorganizations and 214 Chapter XIII wage earner cases. In 1980, which included nine months under the new Code, estate filings reached 5,933 and increased again in 1981 to 8,477 estates which includes 71 Chapter 11 cases and 1,063 estates in Chapter 13.
Adversary Proceedings	In 1981, a total of 990 adversary proceedings were filed in the District. In that year, 742 proceedings were concluded leaving 371 pending as of June 30, 1981.
FJC Weight Application	Application of the weights developed by the Federal Judicial Center show a present need for 3.4 bankruptcy judges based on the fourteen categories of cases and proceedings filed in 1981, and 3.9 based on the projection for 1982.
Bankruptcy Judges' View	The incumbent bankruptcy judges were divided in their opinion as to whether four or five judges were needed for efficient handling of the caseload.
Analysis and Summary	The current level of estate and adversary proceeding filings and the area of the District and unusual character of the geography which requires extensive travel to provide service to all areas of the District requires a recommendation in excess of that obtained by application of the weights determined by the Federal Judicial Center study. Limitations on east-west travel require a greater number of places of holding court than normal.

In addition, the 500 percent increase in Chapter 13 cases has added materially to the continuing workload of one of the judges.

HEADQUARTERS AND PLACES OF HOLDING COURT

The judge service needed has been determined on the basis of headquarters offices at Portland and Eugene and with places of holding court as indicated.

The headquarters are located in the two most populated counties which, with their adjoining counties, also provide the greatest concentration of filings. There are no other areas that would warrant a headquarters office.

The District and State of Oregon is divided by a coastal range of mountains along the Pacific coast and the Cascade range of mountains running from north to south approximately 110 miles from the coast. Between the two, there is a valley in which the population is centered and determines the travel pattern for the bankruptcy court.

Along the Pacific coast, it is recommended that court be held at three places along the approximate 265 miles of coastline. In the north, Seaside should replace Astoria as a place of holding court. This arrangement has in fact existed for many years because of the availability of space in Seaside and not in Astoria. In the north central coast region, Lincoln City will serve and in the south, Coos Bay. In the valley, between the coastal and Cascade range, court should be held at Salem to take in the cases arising in Corvallis and Albany. South of Eugene, Roseburg, Medford, and Klamath Falls warrant court sessions. For the area on the east side of the Cascades, Bend in Deschutes County has been designated. In 1981, 337 cases came from this County. The other area to which the court must travel is the northeast section of the District. Travel to this area is infrequent but necessary. The court should sit at Pendleton and/or LeGrand on this 250 mile trip. Very few cases arise in the southwest part of the District. Cases from Malheur County (63 in 1981) are heard by the bankruptcy judge for the District of Idaho.

MARK O. HATFIELD
OREGON

United States Senate

WASHINGTON, DC

March 20, 1986

The Honorable Strom Thurmond
Chairman
Senate Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Strom:

In a letter dated February 26, 1986 we urged you to maintain in S. 1923 the authorization of a fifth bankruptcy position for the district of Oregon. In that communication we briefly outlined the reasons for Oregon's need of an additional full-time bankruptcy judge and enclosed materials which detailed our State's unique situation. Primary among those reasons was the fact that Oregon is one of only two districts which stands to have the level of bankruptcy services reduced should the fifth judgeship not be authorized. Nevertheless, during committee mark-up on the legislation, a substitute amendment was adopted which deleted Oregon from the bill.

It is our understanding, however, that the Committee did express a willingness to keep the record open. Furthermore, the Committee indicated a desire to be responsive to more recent statistics that establish a compelling case for the addition of a borderline district not included in the bill. We are therefore enclosing for your review a copy of a letter from Judge Henry Hess, Chief Bankruptcy Judge for the District of Oregon, which provides updated filing statistics that, we believe, demonstrate Oregon's critical need for a fifth full-time bankruptcy judgeship. In addition to showing that the State's caseload meets two out of the three statistical thresholds set by the Committee, Judge Hess carefully outlines the subjective factors that contribute to Oregon's bankruptcy workload.

We trust that the Committee will carefully examine this additional information. We cannot emphasize enough our commitment to maintaining the fifth bankruptcy position for Oregon. If we can provide you or any other members of the Judiciary Committee with additional information, please do not hesitate to call us or members of our staff, Craig Higgins at 224-8319 or Cathy Shine at 224-5086.

Thank you for your consideration of this matter.

Sincerely,

Bob Packwood
United States Senator

Mark O. Hatfield
United States Senator

MOH:che
Enclosure

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON
900 ORBANCO BUILDING
1001 S.W. 5TH AVENUE
PORTLAND, OREGON 97204

HENRY L. HESS, JR.
BANKRUPTCY JUDGE

503-221-4186
FTS 423-4186

March 11, 1986

Honorable Owen M. Panner,
Chief Judge
United States District Court
602 U. S. Courthouse
620 SW Main Street
Portland, Oregon 97205

Re: Bankruptcy Judgeships

Dear Judge Panner:

The Senate Judiciary Committee has now reported S. 1923. By virtue of amendments prior to reporting, the bill would provide only 4 bankruptcy judgeships for the District of Oregon and would therefore eliminate the present part-time position located in Eugene.

Enclosed is a copy of a memorandum dated March 5, 1986 issued by the Administrative Office of the United States Courts. This memorandum explains the action which has been taken by the Senate Judiciary Committee. It explains that the Judicial Conference's Bankruptcy Committee, in reaching its recommendations, applied initial criteria of 1,800-2,000 total petitions and 100 chapter 11 petitions per judgeship. To this, the Senate Judiciary Committee applied a third threshold test - adversary proceedings terminated with court action. I am not informed as to the numerical test which was applied for this third criterion.

You have previously been furnished with a booklet prepared by the Administrative Office entitled Bankruptcy Workloads, January, 1986. This booklet is based on figures for the fiscal year ending June 30, 1985 and earlier years. In order to determine where Oregon stood in relation to other districts throughout the country, I caused to be prepared the attached Bankruptcy Judge Workload Statistics Summary from the data contained in the booklet. This summary shows that the workload, based on 4 judgeships for Oregon, did not meet the initial criteria used by the Bankruptcy Committee for the period ending June 30, 1985 in that the number of petitions per judge was 1614 and the number of chapter 11 petitions per judge was 45. It is interesting to note, however, that the median number of petitions per judge in all 92 districts was 1,241 or 373 less than for Oregon. Of the 92 districts, there were 69 districts with a lower number of petitions per judge and only 22 with a higher number. It is also interesting to note that the median number of chapter 11 petitions per judge was 68, far less than the criteria established by the Bankruptcy Committee.

Turning to the third criterion established by the Senate Judiciary Committee, we find that for the period ending June 30, 1985 the median number of adversary proceedings closed with court action per judge was 94 whereas the number per judge in Oregon was 149. There were 75 districts with a lower number and only 16 with a higher number of adversary proceedings closed with court action than in Oregon. Accordingly, although we do not know what numerical test was applied, it would appear that Oregon met this criterion.

Since June 30, 1985 the workload in Oregon has continued to increase. During the period from March 1, 1985 through February 28, 1986, there were 8,146 petitions filed. This represents 2,036 petitions per judge. This figure exceeds the criteria established by the Bankruptcy Committee and presumably adopted by the senate Judiciary Committee. During this period, the chapter 11 caseload remained at 45 per judge, which does not meet the second criteria. We do not have figures for this period for the number of adversary proceedings closed with court action but presume that there has been an increase proportionate to the increase in petitions filed.

Thus, for the twelve month period ending February 28, 1986, Oregon now meets the criterion of number of petitions filed and appears to still meet the criterion of adversary proceedings closed by court action.

While it apparently has been felt that the number of chapter 11 petitions filed is indicative of the workload of a bankruptcy judge, it can be argued that there are other tests for which statistics have been kept which would provide a better guide. First, not all chapter 11 cases call for the same amount of time on the part of a judge. Many, if not most, chapter 11 cases result in dismissal or conversion to chapter 7 without a plan having been confirmed. In some jurisdictions, unlike Oregon, chapter 11 cases are filed by consumers not engaged in business for the purpose of protecting a single parcel of real property from foreclosure because the monetary limits established for chapter 13 cases are exceeded. Such chapter 11 cases require very little more time of the judge than would a chapter 13 case. Some chapter 11 cases may require a great amount of judicial time while others may require minimal judicial time. One statistic which I believe is of major importance is the amount of time required to be spent on the bench. There are no statistics that measure the amount of time which must be spent by a judge off the bench to complete the work required. I believe most experienced judges would confirm that the amount of off-the-bench-time required would be proportionate to the amount of time spent on the bench. In measuring workload, the amount of bench time is more important than the nature of the matter being heard.

The booklet gives data showing the amount of bench time spent per judge in hearing trials and in hearing proceedings. The distinction between these two categories is that a trial is a matter in which a witness testifies and a proceeding is a matter in which no witnesses testify. My experience is that whether or not a witness testifies has no relationship to the amount of time spent by the judge before, during or after a hearing. The attached summary shows the trial hours per judge, the proceeding hours per judge and the combined total per judge. The median number of combined hours per judge in the 92 districts for the year ending June 30, 1985 was 471. The total hours per judge in Oregon was 707. There were 70 districts with fewer hours per judge and only 21 with more hours. For the period from March 1, 1985 through February 28, 1986 the total trials per judge in Oregon increased from 707 to 753.

Since, for the period ending June 30, 1985, Oregon had 149 adversary proceedings closed per judge, whereas the national median was only 94, Oregon apparently exceeded the criteria added by the Senate Judiciary Committee.

With the increased filings since June 30, 1985, and using the petitions filed for the twelve month period ending February 28, 1986, Oregon, at 2,036, exceeds the criteria of 1,800-2,000 per judge. The only one of the three objective criteria not met is the number of chapter 11 cases per judge. As pointed out above, it can be argued that this criteria is not an accurate measure of workload and should be of less significance than the number of bench hours per judge. The latter test, if applied, would show Oregon to have a much higher workload than the median district for the twelve months ending June 30, 1985 and an even higher workload for the period ending February 28, 1986.

Both the Bankruptcy Committee and the Senate Judiciary Committee recognized that raw statistics could not alone indicate the need for additional judgeships, particularly since such statistics were merely total numbers rather than weighted numbers. They both recognized that there may be subjective factors which should also be considered. Such factors include "travel requirements, the sophistication of the local bankruptcy bar, the apparent availability of assistance from other districts in the state, the percentage of business petitions in the district's caseload, and the number of motions and contested matters the judge reported hearing."

Even though Oregon, based on statistics for the period ending June 30, 1985, did not meet the criteria of 1,800-2,000 petitions per judge or 100 chapter 11 petitions per judge, the Judicial Conference recommended an additional judgeship based upon subjective factors.

If the above mentioned subjective factors are considered, the following appears to be the case.

Travel requirements - Oregon is geographically one of the largest districts. To properly serve litigants it is necessary that the judges spend a great deal of time in travel. As pointed out in your letter of May 1, 1985 to Chief Judge James R. Browning of the Ninth Circuit Court of Appeals, more than 50 hours per month of bankruptcy judge time in Oregon is consumed in round-trip travel alone.

Sophistication of the local bankruptcy bar - I am not certain whether it is contemplated that sophistication adds to or subtracts from the workload of a bankruptcy judge. Oregon contains a mix. In the metropolitan areas of Portland and Eugene there are a number of attorneys who spend a large portion of their time on bankruptcy matters. On the other hand, in the other locations at which the court holds hearings, few, if any, of the attorneys who appear before the court spend a substantial portion of their practice in bankruptcy matters.

Availability of assistance from other districts in the state - The District of Oregon comprises the entire state. Therefore there can be no additional assistance within the state. In addition, the workload of the bankruptcy courts within the Ninth Circuit is such that we cannot expect assistance from districts in other states. We are frequently requested by the Circuit Executive to provide assistance to other districts. We have not been able to comply with these requests because of our burdensome workload.

Percentage of business cases - The attached summary shows that the median for all 92 districts is 20%. Oregon's percentage is 27%. There are 66 districts with a lower percentage and only 25 with a higher percentage.

Number of motions and contested matters - The booklet shows a national average of 3,787 proceedings per judge. The number for Oregon is 2,818. While the number for Oregon is less than the national average, it can be argued that such figures may not be an accurate reflection of work-load. A "contested matter" is defined as a matter which is not an "adversary proceeding". "Contested" does not mean that the matter resulted in a "contest" or that a hearing was held. For example, a "motion" for relief from stay is defined as a "contested matter". When such a motion is settled by the parties prior to a hearing, no time on the part of the judge is required except possibly to sign an order presented by the parties. Again, a better measure of workload is the amount of bench time required.

There is a further subjective factor of great importance. At the present time, and for many years, Oregon has been served by four full-time and one half-time bankruptcy judges. If the recommendation of the Judicial Conference to provide one additional position for Oregon (for a total of five judges) were not adopted, but, instead, Oregon were authorized only four judges, the judicial manpower for Oregon would actually be reduced from that which presently exists. Oregon is only one of three districts which would lose a presently sitting judge if the Judicial Conference's recommendations are not accepted (Illinois-Central and Michigan-Western are the other two districts). S. 1923, as reported, adopts the recommendations of the Judicial Conference for the latter two districts. Therefore, only the District of Oregon would lose a sitting judge if S. 1923, as reported, were adopted. The cost of changing the fifth position from half-time to full-time would result in negligible increased cost to the government. The only additional cost would be one-half of the salary of a full-time bankruptcy judge. To eliminate this position would not make sense now that the increase in bankruptcy filings in Oregon places Oregon above the criteria for the number of filings per judge and that the number per judge of adversary proceedings closed with court action, the percentage of business cases to total filings and the bench hours per judge for Oregon far exceed the national medians. Additionally, the factors of increased travel due to the geographic size of the district, and the lack of availability of help within or without the district, dictate retention of the fifth position.

If the fifth position for Oregon is not retained and upgraded to full-time, the four remaining judges will not be able to adequately serve the needs of debtors and creditors. It is expected that the judges would, in order to cope with the work of the court, be compelled to greatly curtail, if not eliminate, travel away from headquarters. This would result in greatly increased costs to debtors, creditors and their attorneys. This should not be allowed to occur.

The bankruptcy judges of the District of Oregon greatly appreciate the efforts which you have exerted and look forward to your continuing support.

Very truly yours,

Henry L. Hess, Jr.
Chief Bankruptcy Judge

HLH/ld

cc: Honorable Donal D. Sullivan
Honorable Elizabeth Perris
Honorable Polly S. Wilhardt
Honorable Albert E. Radcliffe

Enclosures

BANKRUPTCY JUDGE WORKLOAD STATISTICS SUMMARY

	No. of Petitions Per Judge	Bench Hours Per Judge	Adv. Pro. Closed With Ct. Action Per Judge	Business Petitions As % of Total	No. of Ch. 11 Per Judge
12 Mos. Ending 6-30-85					
MEDIAN	1241	471	94	20	68
OREGON	1614	707	149	27	45
12 Mos. Ending 2-28-86					
OREGON	2036	753	N/A	N/A	45

BANKRUPTCY JUDGE
WORKLOAD STATISTICS
FOR 12-MONTH PERIOD ENDED 6-30-85

DISTRICT	No. OF JUDGES	No. OF PETITIONS PER JUDGE	TOTAL BENCH HRS. PER JUDGE	TRIAL HRS. PER JUDGE	PROCEEDING HRS. PER JUDGE	No. OF CH. 11 PER JUDGE	BUSINESS PETITIONS AS % OF TOTAL	ADV. PRO. CLOSED W/I CT. ACTION PER JUDG
1. D.C.	1	697	302	7	295	80	16	50
2. MAINE	2	312	275	35	240	13	28	55
3. MASS.	4	508	248	27	221	52	21	65
4. N.H.	1	535	692	79	613	57	26	42
5. R.I.	1	750	1674	980	694	26	18	69
6. PUERTO RICO	2	763	1016	88	928	106	35	215
7. CONN.	2	921	848	144	704	64	19	55
8. NY (N)	2	1319	586	45	541	78	21	90
9. NY (E)	6	786	99	9	91	38	10	48
10. NY (S)	7	429	593	45	548	63	23	75
11. NY (W)	3	1269	488	40	448	51	21	81
12. VERMONT	1	229	442	80	362	20	38	32
13. DELAWARE	1	451	361	29	332	21	10	25
14. N.J.	5	1335	514	32	482	79	16	146
15. PA. (E)	3	1684	538	17	531	90	9	175
16. PA. (MIDDLE)	2	766	440	66	374	68	26	77
17. PA. (W)	3	1073	859	34	825	106	18	273
18. VIRGIN IS.	0	N/A	N/A	N/A	N/A	N/A	57	N/A
19. MD.	3	1315	305	53	252	87	11	92
20. N.C. (E)	2	1048	335	54	281	69	17	79
21. N.C. (MIDDLE)	2	853	483	16	467	31	13	44
22. N.C. (W)	1	1639	1167	120	1047	95	20	194
23. S.C.	2	1153	302	24	278	68	11	97

BANKRUPTCY JUDGE

WORKLOAD STATISTICS

FOR 12-MONTH PERIOD ENDED 6-30-85

DISTRICT	No. OF JUDGES	No. OF PETITIONS PER JUDGE	TOTAL BENCH HRS. PER JUDGE	TRIAL HRS. PER JUDGE	PROCEEDING HRS. PER JUDGE	No. OF CH. 11 PER JUDGE	BUSINESS PETITIONS AS % OF TOTAL	ADV. P20 CLOSED WIT CT. ACTIO PER JUDGE
14. VA. (E)	3	2085	681	83	598	60	13	128
15. VA. (W)	3	973	453	42	411	35	22	129
16. W. VA. (N)	1	563	1015	24	991	36	31	92
17. W. VA. (S)	1	1330	784	135	649	62	18	131
18. LA. (E)	2	1504	499	101	398	162	14	45
19. LA. (MIDDLE)	1	1241	477	25	452	85	10	179
20. LA. (W)	2	1726	397	3	394	120	24	140
21. MISS. (N)	1	1287	780	79	701	68	12	107
22. MISS. (S)	2	1780	229	41	188	77	5	59
23. TX. (N)	5	1096	1056	258	798	198	42	157
24. TX. (S)	5	1378	330	52	278	177	32	20
25. TX. (E)	1	1089	851	57	794	157	35	65
26. TX. (W)	3	1125	326	48	278	118	20	471
27. KY. (E)	1	2453	760	55	705	51	20	111
28. KY. (W)	3	1527	270	25	245	45	10	62
29. MI. (E)	4	1394	511	38	473	72	13	148
30. MI. (W)	3	1013	692	133	559	53	24	206
31. OH. (N)	8	1168	998	115	883	30	10	85
32. OH. (S)	7	1450	337	22	315	39	13	42
33. TN. (E)	3	1483	694	65	629	32	16	187
34. TN. (MIDDLE)	2	1755	775	70	705	61	14	187
35. TN. (W)	3	2254	853	70	783	42	3	99
36. ILL. (N)	9	2016	433	19	414	62	11	43

BANKRUPTCY JUDGE
WORKLOAD STATISTICS
FOR 12-MONTH PERIOD ENDED 6-30-85

DISTRICT	No. OF JUDGES	No. OF PETITIONS PER JUDGE	TOTAL BENCH HRS. PER JUDGE	TRIAL HRS. PER JUDGE	PROCEEDING HRS. PER JUDGE	No. OF CH. 11 PER JUDGE	BUSINESS PETITIONS AS % OF TOTAL	ADV. PRO. CLOSED WIT CT. ACTIO PER JUDG
47. ILL. (C)	3	1870	328	24	304	42	23	118
48. ILL. (S)	1	1796	592	172	420	68	31	210
49. IND. (N)	2	2425	335	41	294	105	13	108
50. IND. (S)	4	1842	406	21	385	74	10	101
51. WI. (E)	3	1660	512	22	490	49	18	86
52. WI. (W)	2	1233	592	57	535	126	43	65
53. ARK.	3	1317	45	12	33	69	17	143
54. IOWA (N)	2	1167	309*	13*	294*	139	52	109
55. IOWA (S)	2	1189	258	56	202	66	33	80
56. MN.	4	1349	562	58	504	67	27	107
57. MO. (E)	3	1013	275	54	221	44	15	104
58. MO. (W)	3	1444	159	32	127	119	30	104
59. NEB.	2	1377	244	104	140	96	24	135
60. N.D.	1	681	471	120	351	80	46	158
61. S.D.	1	912	1432	76	1356	179	57	82
62. ALASKA	1	534	483	7	476	103	45	23
63. AZ.	4	1294	1093	146	947	93	26	145
64. CA. (N)	8	1504	336	48	288	103	21	55
65. CA. (E)	6	1691	402	68	334	144	27	140
66. CA. (C)	17	1990	557	71	486	112	11	98
67. CA (S)	3	1942	476	75	401	191	14	113
68. GUAM	0	N/A	N/A	N/A	N/A	N/A	35	N/A
69. HI.	1	609	330	14	316	106	40	50

BANKRUPTCY JUDGE WORKLOAD STATISTICS FOR 12-MONTH PERIOD ENDED 6-30-85

DISTRICT	No. OF JUDGES	No. OF PETITIONS PER JUDGE	TOTAL BENCH HRS. PER JUDGE	TRIAL HRS. PER JUDGE	PROCEEDING HRS. PER JUDGE	No. OF CH. 11 PER JUDGE	BUSINESS PETITIONS AS % OF TOTAL	ADV. PRO CLOSED W. CT. ACTIO PER JUDG
70. ID.	2	1203	318	26	292	57	28	45
71. MT.	1	1052	250	78	172	93	26	36
72. NV.	3	962	900	126	774	114	20	99
73. OR.	4	1614	707	77	630	45	27	149
74. WN. (E)	2	1458	379	53	326	99	23	21
75. WN. (W)	4	2093	453	56	397	110	13	135
76. CO.	4	1753	449	81	368	64	29	149
77. KS.	3	1603	688	74	614	65	22	106
78. N.M.	2	794	455	47	408	67	19	105
79. OK. (N)	2	1027	601*	100*	501*	45	25	58
80. OK. (E)	1	698	236	18	218	27	33	94
81. OK. (W)	2	2177	1016	183	833	102	20	159
82. UT.	3	1319	1033	220	813	142	28	323
83. WY.	1	1037	484	71	413	97	46	53
84. ALA. (N)	5	1503	869	86	783	31	7	75
85. ALA. (MIDDLE)	2	997	209	86	123	24	13	46
86. ALA. (S)	2	677	200	9	191	17	15	91
87. FLA. (N)	1	661	435	117	318	75	40	107
88. FLA. (MIDDLE)	4	1439	356	28	328	139	22	105
89. FLA. (S)	3	906	690	46	644	115	23	172
90. GA. (N)	6	1405	448	123	325	40	14	80
91. GA. (MIDDLE)	2	1782	120	16	104	60	9	73
92. GA. (S)	2	1199	700	53	647	56	8	87
MEDIAN	—	1241	471	—	—	68	20	94

ARLEN SPECTER
PENNSYLVANIA

COMMITTEES:
JUDICIARY
APPROPRIATIONS
VETERANS' AFFAIRS
INTELLIGENCE

United States Senate
WASHINGTON, DC 20510

February 19, 1986

The Honorable Strom Thurmond
United States Senate
Washington, D.C. 20510

Dear Strom:

I am very concerned about S. 1923, legislation which provides for additional bankruptcy judgeships, which is the first item of priority on the executive agenda of the Committee on the Judiciary.

I have been advised that independent analysis performed by the House Judiciary Committee has resulted in the recommendation that at least one of the newly created judgeships should be allocated to the Western District of Pennsylvania. This analysis, based upon an objective study of the caseloads and backlogs of the courts, comports with the original recommendation by the Western District of Pennsylvania to the Judicial Conference that an additional slot be allocated to the Western District.

I am most anxious to have the bill modified to reflect this new recommendation, and would appreciate any effort which you could make in this regard.

Thank you for your attention to this important matter.

My best.

Sincerely,

Arlen Specter

AS:dm

BOB PACKWOOD, OREGON, CHAIRMAN
BOB DOLE, KANSAS
WILLIAM V. ROTH, JR., DELAWARE
JOHN C. DANFORTH, MISSOURI
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WILLIAM DIEFENDERFER, CHIEF OF STAFF
MICHAEL STERN, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510

February 25, 1986

The Honorable Strom Thurmond
United States Senate
Washington, D.C. 20510

Dear Strom:

It is my understanding that on Thursday, February 27 the Judiciary Committee will consider S. 1923, legislation that provides for additional bankruptcy judgeships. I have serious concerns with that legislation.

The Judiciary Committee of the House of Representatives studied the caseloads and backlogs of all the bankruptcy courts and concluded that at least one of the newly created judgeships should be allocated for the Western District. The House Committee's recommendation was the same as that made by the Western District of Pennsylvania to the Judicial Conference.

As it is now drafted, S. 1923 does not provide for a new judge in the Western District of Pennsylvania. I would like to request that the Committee modify the measure to accommodate the needs of the Western District of Pennsylvania by establishing one new bankruptcy judgeship for that area.

Thank you for your assistance in this important matter.

Sincerely,

John Heinz
United States Senator

JH/jsk

cc: Senator DeConcini
Senator Hatch
Senator McConnell

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

CHARLES CLARK
CHIEF JUDGE
P.O. DRAWER 2819
JACKSON, MS 39205-2819

March 5, 1985

(601) 353-0911

The Hon. Phil Gramm
United States Senator
370 Russell Senate Office Building
Washington, DC 20510

ATTENTION: Ms. Missy Solove

Dear Ms. Solove:

Attached are three pages of information about judicial activity in the Bankruptcy Court of the Southern District of Texas. As I have told you by telephone, it is my information that the Senate Judiciary Committee staff recommended that only two additional judges be allowed for the Southern District of Texas Bankruptcy Court principally because the number of adversary proceedings terminated by that court during the statistical period measured was so low. The reason for this was not inattention by current judges to the business of the court, but rather resulted from their press to hear the veritable flood of emergency motions for relief from automatic stay orders and motions to avoid liens that have inundated this court since the dramatic downturn in the oil industry. In addition, you will note that the district is among the highest in the nation in the number of business filings. Its pending case load is also among the highest. During the past two years the district has had the misfortune to have two of the largest bankruptcies in the United States filed before it. As you will note, as soon as I was able to get emergency temporary relief for the district in August of 1985, a visiting judge has been able to close 2,747 adversary proceedings. I believe that the committee's use of this statistic to deny the third additional judgeship to Southern Texas is unwarranted. I hope that Senator Gramm can be persuaded to use his influence to reinstate this badly needed judicial position.

If I may be of further help, please call on me. You can reach me at (601) 353-0911. I will be in Washington next week and can visit with you personally if that would be of assistance. You can reach me through the office of the Director of the Administrative Office of the United States Courts, whose Washington telephone number is 633-6097.

Sincerely,

Charles Clark

Enclosures

1. Total Filings: (7,673 AO figures 9/30/85)

   a. Last 3 months actual:

      Dec. 85 - +44% over Dec. 84
      Jan. 86 - +125% over Jan. 85
      Feb. 86 - +46% over Feb. 85

   b. Business filings: (2,434 AO figures 9/30/85)

      5th highest in nation

   c. Pending caseload (16,130 AO figures 9/30/85)

      7th highest in nation

2. Chapter 11 Filings:

   a. 77% over committee-accepted level

   b. Continental Airlines

      40,000 claims
      $250,000,000 secured claims
      $750,000,000 unsecured claims
      52 lawyers

   c. Good Hope Oil Refinery

      5,000 claims
      $750,000,000 secured claims
      $450,000,000 unsecured claims
      38 lawyers

3. Adversary Proceedings Terminated:

   a. 2,747 - Aug. 85 - Feb. 86
      All by visiting judges, Ryan.

   b. Emergency motions:

      Relief from stay: 6,516 - Feb. 85 to Mar. 86
      Lien avoidance: 390 - Feb. 85 to Mar. 86

4. Visiting Judge Help:

   Judge Roberts (S.D. Miss.) has devoted over 50% of his ime to this district for the past 2-1/2 years. Judge Ryan (S.D. N.Y. Retired) has devoted all of his time for 11 months. Six other judges have been designated for 20 specific terms of days.

5. District Size:

   Six divisions
   450+ miles east to west.

	Adversary Proceedings	
	Openings	Closings
March 1985	90	0
April 1985	85	0
May 1985	74	0
June 1985	83	0
July 1985	73	0
Aug. 1985	98	405
Sept. 1985	88	682
Oct. 1985	101	401
Nov. 1985	93	66
Dec. 1985	100	555
Jan. 1986	131	538
Feb. 1986	99	100
	1,115	2,747

	Motions Requesting Relief From Automatic Stay	
	Filed	Terminated
March 1985	529	395
April 1985	539	427
May 1985	496	391
June 1985	483	567
July 1985	537	652
Aug. 1985	510	605
Sept. 1985	520	513
Oct. 1985	708	525
Nov. 1985	652	588
Dec. 1985	550	531
Jan. 1986	879	662
Feb. 1986	634	660
	7,037	6,516

	Motions to Avoid Liens	
	Filed	Terminated
March 1985	38	42
April 1985	21	34
May 1985	41	26
June 1985	31	29
July 1985	33	24
Aug. 1985	24	14
Sept. 1985	39	34
Oct. 1985	30	44
Nov. 1985	29	38
Dec. 1985	32	35
Jan. 1986	41	38
Feb. 1986	40	32
	419	390

NOTE: Judge Ryan - August 5, 1985 - began sitting as visiting Bankruptcy Judge, Southern District of Texas

Judge Taitte - March 21, 1985 - appointed U. S. Bankruptcy Judge

It is necessary that the Bankruptcy Judges travel throughout the six divisions of this District.

BANKRUPTCY JUDGES DESIGNATED FOR SERVICE IN S. D. TEXAS

David Houston S.D. MS	Mar. 1 - June 30, 1986 Oct. 28 - 30, 1985 Sept. 24, 1985 June 24 - 27, 1985 March 18 - 21, 1985 April 22 - 25, 1985 Jan. 14-17, 1985 Oct. 22-24, 1984 Sept. 24-26, 1984 July 23-26, 1984 Aug. 27-30, 1984
Robert McGuire N.D. TX	March 21-22, 1985 Sept. 5-7, 1984 Apr. 25-27, 1984
Wesley W. Steen M.D. LA	March 14-15, 1985 March 28-29, 1985 April 16-19, 1985 May 14-17, 1985 June 18-21, 1985 July 30 - Aug. 2, 1985
Michael McConnell N.D. TX	March 26-28, 1985 Sept. 17-18, 1984 Aug. 15-17, 1984
Bill Brister N.D. TX	Aug. 13-14, 1984 Apr. 9-13, 1984
Glover Roberts S.D. MS	(designated 7/3/84 to preside over Continental Airlines and Good Hope Oil Refineries cases. No dates given) Month of June 1984 Month of May 1984 Months of March and April 1984 Nov. 1, 1983 - Feb. 29, 1984
Edward J. Ryan New York (Retired)	Aug. 1 - Dec. 31, 1985 Jan. 1 - June 30, 1986

RUDY BOSCHWITZ
MINNESOTA

United States Senate
WASHINGTON, DC 20510

Honorable Strom Thurmond
United States Senate
Washington, D.C. 20510

Dear Strom:

I recently visited some friends in Houston and spoke with Manuel Leal, who is a bankruptcy judge for the Southern District of Texas, which includes Houston, Laredo, Brownsville, and Corpus Christi. That sounds like an area that's about the size of South Carolina!

Apparently they presently have three bankruptcy judges who are handling 26,000 cases currently due to the problems of the energy industry in the area.

As I understand it, your committee is considering whether or not to assign three more judges to the area, and from all I heard, it is certainly important to get that done, whether they are all permanent or temporary. Even though south Texas is a little out of my jurisdiction, the energy industry concerns us all, and many of these firms have to be able to properly function -- even in bankruptcy.

Will you please let me know what the status of these judges is.

Thanking you, I am

Cordially,

Rudy Boschwitz

RB:kh
cc: Honorable Lloyd Bentson
Honorable Phil Gramm

United States Bankruptcy Court
Eastern District of Wisconsin

DALE E. HILENFELDT
U. S. BANKRUPTCY JUDGE

314 FEDERAL BUILDING
517 E. WISCONSIN AVENUE
MILWAUKEE, WISCONSIN 53202

March 14, 1986

Honorable Robert W. Kastenmeier
House Office Building
Washington, D. C. 20515

Dear Congressman Kastenmeier:

This letter concerns the legislation now pending before Congress which would authorize the appointment of additional bankruptcy judges as requested by the Judicial Conference of the United States, specifically Senate bill S. 1923, and the two House bills, H.R. 4128 and H.R. 4140. All three of these bills would have provided an additional bankruptcy judge for the Eastern District of Wisconsin.

On February 27, 1986, S. 1923 was reported out favorably by the Senate Judiciary Committee, but it was amended so as to include only 34 of the 48 judgesnips that the Judicial Conference had recommended. Among the judgeships eliminated was that for the Eastern District of Wisconsin.

I am writing to express my concern about the Committee's action and to ask for your help in whatever way possible to have the bankruptcy judgeship for Eastern Wisconsin reinstated and included in this legislation. By copy of this letter to the members of the Senate Judiciary Committee as well as our own two Senators, I am asking their consideration and help in restoring the judgeship to the Senate bill.

What I have to say is to a great extent based on my nearly twenty years experience as a bankruptcy judge, and accordingly, to a considerable degree, my letter will be of a personal nature. The work that bankruptcy judges do is seldom found on the front pages, and I recognize that my name is not a household word outside of my own household. For that reason, along with my years of service, I offer the enclosed articles as credentials.

I will acknowledge that the raw figures contained in the statistical reports put out by the Administrative Office of the U. S. Courts do not lend strong support to my plea for your help. There are two comments I would make in that respect. First, it does not matter from which direction you view them -- those figures are just not adequate to reflect the amount of work that is being done by the bankruptcy judges. In addition, I am sorry to say that I and my two colleagues have not concerned ourselves in the past in seeing that the reports on our personal activities fairly show the amount of time being expended. Unfortunately for us, we have been more concerned with doing our work and serving those members of the public who seek the help of the court, rather than trying to build up statistics.

Of the cases filed, the largest grouping is that of chapter 7 consumer debtors. Apart from a considerable number of adversary proceedings involving the nondischargeability of debts, some objections to claimed exemptions, and the need to sign a great many routine orders, these cases take up relatively little of the judge's time. In the business or

asset type chapter 7 cases, there are often disputes over the validity of liens and the like. However, it is the chapter 13's and more importantly the chapter 11's that in particular make continuous and urgent demands upon the time and energy of the bankruptcy judges.

The 13's and 11's stay with the court for a period of years and repeatedly generate contests that are not easy of resolution. It is in the 11's especially that written decisions are often required. The number of chapter 13 and chapter 11 cases that are pending is increasing each year, and for the past five months in this district, the number filed in each of these categories has been trending upward. We have had a substantial number of farm cases. From all indications, it appears that many more will soon be filed.

In a letter to our chief district judge last year, I pointed out the impact that just one pending chapter 11 case can make. The case of In re Northwest Engineering Co., filed in 1983, has to date produced in excess of 33 pages of docket entries. A plan was confirmed on January 28, 1985, and the business thereby saved for the city of Green Bay. After the January 28, 1985 confirmation, however, there were numerous and hard fought contests, each of a type in which an appeal appeared likely. One appeal has in fact been taken. We were able to settle some, but of the others, four lengthy decisions have been written in this case, and two more are awaiting a written decision. In just one of the latter two contests, the transcripts, briefs, and proposed findings and conclusions alone make up a stack of papers five inches high. This dispute was taken under advisement by me on May 1, 1985. More urgent hearings take precedence, and I have not been able to pick up that file and work on it since May 1, 1985.

Newman Companies, Inc. is another chapter 11 case of this nature. There have been frequent contested hearings followed by written decisions. A week ago, the trustee filed a single adversary proceeding for the recovery of preferential payments in which he named 104 separate defendants. The defendants are individual investors in the Newman Company who received cash payments in the period just prior to the filing of the chapter 11 petition. Although they are joined in one complaint, and perhaps properly so, it is a fact that the issues as to each differ enough so that each will have to be tried separately. Naturally, it is the trustee's hope, not to mention this court, that it will be possible to resolve most of these by compromise. Even so, a tremendous amount of work will be involved.

I believe it would be instructive to give a brief explanation of how the system has operated here in Eastern Wisconsin. By far, most of our hearings are conducted informally and outside the courtroom. As a matter of fact, a very high percentage of the hearings are handled by way of conference phone calls. The reason for this is that many of the hearings are of an emergency nature held with virtually no advance notice. In addition, attorneys' time is costly to clients, and attorneys' offices are often located a great distance from the place of holding court. Although many attorneys now practice in this court, most of them know each other or know of each other.

In chapter 11 cases, the hearings may involve such matters as relief from stay, the value of collateral, the use of cash collateral, objections to claims, adequate protection, and how a creditor is to be treated in the plan. In chapter 13 cases, they may involve objections to confirmation, relief from stay, the value of collateral as compared to the amount of a claim, and objections to claims.

With the court and the parties sitting around a table and discussing the issues and the positions of the parties, these types of disputes can be and are generally resolved by agreement. This type of negotiated result does not show as a trial in the reports. Nevertheless, the hearing will often take as much time and effort on the part of the court as an actual trial. What is saved is the time and effort it would take the court to prepare a written decision. In addition a result is achieved that is fairer, or at the least more acceptable to the parties than would be a ruling imposed by the court.

On the occasions that a consensus cannot be reached and a courtroom hearing is needed, we make a record with contract court reporters. The Administrative Office has asked how we manage to keep our reporter expenses so low. As already noted, the answer is that we resolve a great many disputes through discussion, negotiation and agreement without the need for a reporter. I do not doubt that this procedure would not work well in other areas of the country, for example in large metropolitan areas where the participating attorneys are not acquainted with each other or with each other's reputations. Here in Eastern Wisconsin, we have been able to conduct the court's business in this way, and I believe it has worked well for the parties who appear in this court.

Chapter 13 cases in the Milwaukee and Racine metropolitan areas are handled by me. Under the old Bankruptcy Act, chapter 13 petitions were often filed to save a car. In almost every case, the chapter 13 petition is now filed in an effort to save the homestead. Disputes presented for disposition by the court involve objections to confirmation of the debtor's plan (whether the plan is sufficiently funded, feasible, in good faith and otherwise in compliance with the statute), relief from stay where the debtor has missed some of his payments, whether a mortgagee or secured creditor has adequate protection, and objections to claims.

Such disputes in Milwaukee cases are mostly handled on Tuesdays with the chapter 13 trustee present. Tuesday, March 4, 1986 was fairly representative. There were 13 motions for relief from stay, 6 debtor objections to the trustee's motion to dismiss, 1 hardship discharge, 1 objection to claim, and 19 confirmations. The hearings ran from about 10 a.m. until 7 p.m., with perhaps a half hour off for lunch. One motion for relief from stay, sharply contested, took the better part of an hour. At the conclusion of the hearings, I took the file home and spent two more hours after supper checking through it in order to rule fairly on the dispute. The calendar on Tuesday, March 11, 1986 consisted of 12 motions for relief from stay, 8 debtor objections to trustee's motion to dismiss, 3 objections to claims, 1 objection to confirmation, and 11 confirmations. These also occupied the court's time until 7 p.m. With few exceptions, most of these matters are handled informally.

It is the court's duty to carry out the intent of Congress in this important program, and I believe that we are doing so. There is no doubt that many creditors do not particularly like the law, but if asked, I think they and the debtors' attorneys would tell you that this court is administering these cases in accordance with the intent of Congress as set out in chapter 13, and that creditors and debtors alike are being treated fairly and even-handedly. I offer as support for that statement the fact that in six and one-half years that the law has been in effect, despite the multitudinous disputes that have been presented to me, and in light of the hundreds of chapter 13 written decisions from other districts in the bankruptcy court reporters, I do not recall a single appeal having been taken to the district court from a ruling of this court in a chapter 13 case. The official statistics just do not reflect the tremendous amount of time and effort on the part of the court that it took to achieve these results.

I would now like to get a bit more personal in this plea for help. I have been honored and it has been my privilege to work for the federal court system for many years, and I have been well treated by the government throughout that time. I have always been blessed with good health, and throughout all of those years, I have not missed a single day of work because of illness, other than on three separate occasions when I went into the hospital briefly for surgery. I have never taken more than a couple of weeks vacation, although I was long entitled to much more than that. The work, in whatever position I was occupying with the court, was there to be done, and I did it faithfully and to the best of my ability.

In recent years, the work of this court has been so increasingly heavy that I have not felt able to take any time off, other than a day or two before and after the annual meeting of the National Conference of Bankruptcy Judges. My last vacation was for one week in January, 1983. I take files home at night and on weekends, and work on them, if I am able to build up the necessary initiative and am not too tired. I celebrated the 4th of July, 1985, right here in my office. I celebrated the birthday holiday of Martin Luther King, Jr. in January of this year in the same place. These are quiet times, when there are no interruptions and one can work on the written decisions that are needed.

As the work continues to build up more and more heavily, however, and the tired feeling seems to come more often and stay longer, it becomes more and more difficult to open up a file and deal with the problems that have been presented to the court to resolve. My colleague, Judge Shapiro, is here every day from 7:30 in the morning until 6:30 in the evening. He is here every Saturday for a good part of the day, and he takes work home. He has not taken a vacation in the past two years. Of late, my other colleague, Judge Clevert, has taken up midnight hours in his chambers to keep abreast of things. He had a week's vacation last year. We do need another judge, and we urge that it be provided in the legislation now pending before the Congress.

Very truly yours,

D. E. IHLENFELDT,
U. S. Bankruptcy Judge

DEI:sc
Enclosures

cc: Hon. Strom Thurmond
Hon. Charles McC. Mathias,Jr.
Hon. Paul Laxalt
Hon. Orrin G. Hatch
Hon. Alan K. Simpson
Hon. John P. East
Hon. Charles E. Grassley
Hon. Jeremiah Denton
Hon. Arlen Specter
Hon. Mitch McConnell

Hon. Robert W. Kasten, Jr.
Hon. William Proxmire

Hon. Joseph R. Biden, Jr.
Hon. Edward M. Kennedy
Hon. Robert C. Byrd
Hon. Howard M. Metzenbaum
Hon. Dennis DeConcini
Hon. Patrick J. Leahy
Hon. Howell Heflin
Hon. Paul Simon

Monday, May 13, 1985 MILWAUKEE SENTINEL

Retired judge praised for fairness

By Dan Kadlec

Dale E. Ihlenfeldt, chief bankruptcy judge for the Eastern District of Wisconsin, has ruled from the bench for 18 years, and his retirement earlier this month caused tremors to ripple through the bankruptcy bar.

Ihlenfeldt ruled with a clear consistency that prompted lawyers who have practiced in his court to praise his fairness and knowledge of the law.

Perhaps the most poignant observation of Ihlenfeldt came from a colleague, Federal Bankruptcy Judge Charles N. Clevert.

"He knows the value of a dollar," Clevert said.

What better praise for a man whose job it is to help decide who gets what in legal battles over money.

"We always hear about excesses in government," Clevert said. "Go up and look at Judge Ihlenfeldt's sofa. It's falling apart and he has refused to get a new one, although I think he recently consented to have it re-covered."

Ihlenfeldt has called the Federal Building at 517 E. Wisconsin Ave. his home since he was hired in 1951 as law clerk for the late Federal Judge Robert E. Tehan. No one in Milwaukee has been with the federal court longer.

Late last month, Ihlenfeldt, 66, opted for senior status, which amounts to a working retirement. He said last week he intended to continue carrying a full caseload a while longer.

"I can't imagine him slowing down all of the sudden," Clevert said. "This will give him a chance to work a 40-hour week."

Ihlenfeldt long has been known for putting in 10- to 12-hour days. He even admits to a number of all-nighters in preparation for hearings early the next morning.

"It's no big deal," he said.

Speaking in his office, Ihlenfeldt clutched a dented and scraped thermos emitting the steam of warm coffee.

"His hands are comfortable around

Dale E. Ihlenfeldt

the thermos, which may predate history itself. He drinks directly from the thermos, the cap for which was lost ages ago.

The tattered and zipped couch came with the office nearly 20 years ago and still occupies one wall.

To his left is a manual typewriter; to his right, a beat-up leather briefcase.

Furnishings like these are what prompted Clevert to comment on Ihlenfeldt's fiscal awareness.

Clevert recalled a time when Ihlenfeldt convinced a group of judges to take the subway rather than cabs while attending a conference in Cleveland.

Russell Long, a bankruptcy trustee who five years ago was Ihlenfeldt's first law clerk, recalled more than one occasion when Ihlenfeldt, while performing judge's duties in Green Bay and Racine, stayed overnight at the YMCA.

"I'm used to camping," said Ihlenfeldt, who often packs a bag lunch for work. "I'd stay at the 'Y' and think it was a pretty good room. Those kinds of things aren't all that important to me."

Ihlenfeldt's salary is "about $68,000." He wasn't sure exactly.

Those who practice in his court and who work with him welcomed the news that he will continue on the bench after retirement.

"I've always found him to be extremely fair, knowledgable of the law and extremely generous with his time," said Benjamin Laird, bankruptcy trustee in the pending Newman Companies Inc. case, which Ihlenfeldt rates among his most memorable.

Others called him "an incredible workhorse," "a great guy," "an exceptional person" and "a very wise man."

There seemed little doubt that, as Clevert said, "If he should leave, we'll sorely miss him."

"He's so well respected, and not only in Milwaukee but by bankruptcy judges throughout the country," said Bankruptcy Judge James E. Shapiro.

That reputation is largely the result of Ihlenfeldt's time-consuming efforts as a governor with the National Conference of Bankruptcy Judges and with the Bar Association of the Seventh Federal Circuit, Shapiro said.

He also is active at Westminster Presbyterian Church, 2308 E. Belleview Pl., where he has been a member for 25 years and treasurer for 6 years.

Beyond that, Long said, the judge always finds time to attend seminars as a speaker or a listener.

"Somebody will call from Appleton and want to know about bankruptcy laws, and in the middle of the week he'd go right up there and tell them," Long said. "He considers himself a public servant. This guy works every day of the year."

"That's part of the job," Ihlenfeldt said.

He was born in the farming community of Two Creeks. His father, Roy S. Ihlenfeldt, was an educator who moved the family to Wilmot, Kenosha and Madison as his career progressed, culminating in a job as state school supervisor.

Ihlenfeldt earned an accounting degree from University of Wisconsin in 1940. He worked a couple of years as an insurance agent, then enlisted in the US Navy.

After four years service, he returned to Madison and attended law school. He graduated in 1948.

He joined a private practice, then became Tehan's law clerk. In 1965, he was appointed clerk of courts, an administrative position he held for nearly 12 years.

On Nov. 1, 1965, Tehan, his mentor, appointed Ihlenfeldt bankruptcy referee, a position he at first declined, but then accepted out of loyalty.

"As usual he did me a favor," Ihlenfeldt said. "It was like coming alive again in the law."

It was Ihlenfeldt's strong sense of duty that led him to retirement, the same sense of duty that drives him to work weekends and holidays.

"It means we can get another judge," he said simply. "There's not enough time in the day anymore. For the first time in 18 years, I'm not getting decisions out promptly."

MBA

JUDGE'S CORNER

Chief Bankruptcy Judge Dale E. Ihlenfeldt

by
Irvin B. Charne*

The Hon. Dale E. Ihlenfeldt

Recently, the Hon. Dale E. Ihlenfeldt announced he would take senior status effective on the date his replacement is appointed by the Seventh Circuit Court of Appeals. *The Milwaukee Lawyer* is honored to publish this tribute to Judge Ihlenfeldt.

Chief Bankruptcy Judge Dale E. Ihlenfeldt has made a career of public service and it has earned him the respect and admiration of the people he most likes to be with, fellow members of the legal profession.

Judge Ihlenfeldt has completed almost 19 years of service in the bankruptcy court of the United States District Court for the Eastern District of Wisconsin. In his usual modest and unassuming manner, he emphasizes that the court over which he presides is not "his court" but rather "the court in which I serve."

While he has gained national recognition as an authority on bankruptcy law and procedure, Judge Ihlenfeldt's demeanor on the bench has not changed from the time he first began his term in 1966. Each lawyer and each party or witness who appears in his court is treated with courtesy and respect. Judge Ihlenfeldt knows that in maintaining the dignity of the bench, it is not necessary to demean those who appear before him. Judge Ihlenfeldt displays those attitudes of judicial integrity, concern for all people, and compassion for people with problems that mark the great trial jurist.

He attributes much of his admirable judicial qualities to his opportunity to observe and learn from the late Chief United States District Judge Robert E. Tehan, whose law clerk he became in November of 1951. He continued as law clerk until 1955 when he became Clerk of the United States District Court for the Eastern District of Wisconsin. In that capacity, he helped modernize the clerk's office to enable it to handle the increased volume of litigation which developed in the United States District Court. The court has gone from one trial judge at the time when Judge Ihlenfeldt was a law clerk to now having four full-time and one senior-status judge.

Judge Ihlenfeldt's public service career began in 1942 when he left his employment as an accountant for Badger Mutual Insurance Company in Milwaukee and enlisted in the United States Navy. He rose from the rank of an enlisted man to that of a lieutenant (jg). He served at sea as a supply officer on a destroyer. After his discharge from the Navy in July of 1946, he enrolled at the University of Wisconsin Law School and graduated with honors in 1949. He then worked in the offices of Bitker & Marshall before he moved over to the Federal Building and the start of his service in the administration of justice.

Judge Ihlenfeldt is a Wisconsin native. He was born in Two Creeks, Wisconsin, and lived in Wilmot, Wisconsin, where his father, Roy Stanley Ihlenfeldt, was principal of the high school and Kenosha, Wisconsin, where his father was county superintendent of schools. Judge Ihlenfeldt graduated from the Kenosha High School in June of 1936 and then went to the University of Wisconsin in Madison where he received a B.A. in accounting in 1940.

Irvin B. Charne

Although he has submitted his resignation for full-time bankruptcy judge effective upon the appointment of his successor, Milwaukee lawyers will be happy to know that Judge Ihlenfeldt has requested that he be recalled to serve as a full-time senior-status bankruptcy judge. He anticipates that he will be reappointed for renewable 6-month terms and that he will continue doing the work in which he has so distinguished himself.

In addition to his public service career, Judge Ihlenfeldt's other great source of happiness is his family. In 1954 he married Elinor Slaymaker and they have raised six children. Although many of them now follow their own careers in other communities, Judge Ihlenfeldt is especially happy when the whole family can be together. Hopefully, his new schedule as a senior bankruptcy judge will give him more time to enjoy such family occasions.

Judge Ihlenfeldt has honored the legal profession by his service. We wish him many more productive years as a judge in the court in which he serves.

*Mr. Charne is a shareholder in the Milwaukee Law Firm of Charne, Glassner, Tehan, Clancy & Taitelman, S.C.

JOHN W. WARNER
VIRGINIA

United States Senate
WASHINGTON, D.C. 20510

ARMED SERVICES COMMITTEE
Chairman, Strategic and Theater Nuclear Forces Subcommittee
ENERGY AND NATURAL RESOURCES COMMITTEE
Chairman, Energy and Mineral Resources Subcommittee
RULES AND ADMINISTRATION COMMITTEE
JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

March 11, 1986

Honorable Strom Thurmond
Chairman
Committee on the Judiciary
SD-224
Washington, D.C. 20500

Dear Mr. Chairman:

I am writing to strongly support the conclusions of the Judicial Conference regarding authorization of additional bankruptcy judges, which included recommendations for an additional judge for the Eastern District of Virginia.

I understand that the recommendation for an additional judge for the Eastern District of Virginia was rescinded after a second review by the Senate Judiciary Committee.

I am advised that the primary reason for rescinding the authorization for an additional Eastern District judgeship was the apparent underutilization of Western District bankruptcy judges. Based on my own knowledge of the geography of Virginia and information supplied by Mr. Frank Szczebak, Chief of the Division of Bankruptcy, Administrative Offices of U.S. Courts, it is my conclusion that it is not feasible to use Virginia's Western District judges in a "floating" capacity. Because of severe geographical characteristics, travel requirements which are reasonable in other parts of the United States are completely unworkable in the mountainous western Virginia terrain. The Judicial Conference itself determined that western Virginia geography prevents judges from traveling to our neighboring state of West Virginia to shoulder some of the caseload in that state. Finally, the judges in the Western District are presently traveling to outlying regions of that District, making additional travel to the Eastern District a severe impediment, and an unnecessarily inefficient solution to the problem of overloaded bankruptcy dockets.

In further support of a renewed authorization for an Eastern District bankruptcy judgeship, the following caseload statistics should be considered by the Judiciary Committee:

a) Relative to the Administrative Office's standard of 1,800-2,000 total petitions filed per judgeship, and 100 Chapter 11 petitions filed per judgeship, the Eastern District of Virginia presently has pending 2,500 total petitions filed per judgeship and 172 Chapter 11 petitions filed per judgeship.

b) Petitions filed in the Eastern District of Virginia in January of 1986 are 52% greater than the petitions filed in January of 1985. I understand that the Judiciary Committee statistics compilation ended June 30, 1985.

I am also submitting for the record three letters from bankruptcy judges from the Eastern District of Virginia providing additional statistics and the benefit of their views regarding the crucial necessity of an additional judgeship for the Eastern District of Virginia.

In conclusion, I strongly urge the Judiciary Committee to follow the recommendations of the Judicial Conference of the United States in proposing an additional bankruptcy judge which is desperately needed in the Eastern District of Virginia.

Kindest regards,

Sincerely,

John

John Warner

JW/esh

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
206 NORTH WASHINGTON STREET
SUITE 410
ALEXANDRIA, VIRGINIA

CHAMBERS OF
MARTIN V. B. BOSTETTER, JR.
CHIEF JUDGE

(703) 557-3867

February 13, 1986

The Honorable John W. Warner
United States Senator
421 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Warner:

I am writing in support of Senate Bill No. S1923 which authorizes an additional bankruptcy judge for the Eastern District of Virginia, for a total of four bankruptcy judges in this district. This Bill is based upon a thorough and complete study and the recommendation of the Judicial Conference of the United States, and authorization for such additional judge is certainly justified.

One concern that I have stems from the fact that two Bills are presently pending in the House. One Bill, House Bill No. 4140 introduced by Congressman Fish, authorizes the fourth bankruptcy judge. However, the other Bill, House Bill No. 4128 introduced by Congressman Rodino, for some reason has eliminated the additional position for this district. I am not certain as to the reason for the deletion of this position from Congressman Rodino's Bill. However, I am aware that the standard that was applied was based upon a case load of 1,800 to 2,000 total petitions filed per judgeship and 100 chapter 11 petitions filed per judgeship.

Presently we have pending in the Eastern District of Virginia approximately 2,500 total petitions filed per judgeship and 172 chapter 11 petitions per judgeship. It is possible that Congressman Rodino's calculations did not take into account this large number of chapter 11 petitions, some of which were filed after the compilation of the statistics.

Also, it is important to note that chapter 11 cases vary widely in their complexity. As an example, we have pending in the Eastern District of Virginia the Equity Programs Investment Corporation ("EPIC") cases which involve over one hundred financial institutions, the State of Maryland, the Federal Home Loan Bank Board, as well as Mortgage Guaranty Insurance Corporation, Ticor and the Federal National Mortgage Association. Also pending is the chapter 11 case filed by National Tire Wholesalers, Inc., the largest independent tire wholesaler in the United States, not to mention A. H. Robbins with which I am certain you are familiar. Consequently, I feel that this district is entitled to an additional judge not only on the basis of the number of chapter 11 cases filed but also on the basis of the complexity of the cases filed.

In addition, I think it is important to note that our filings are up 52% for the month of January 1986 as opposed to January 1985, which was an historic high for this district.

Any support that you can give to the passage of Senate Bill No. S1923 in the form presently proposed would be most appreciated.

With highest regards, I am

Sincerely yours,

Martin V. B. Bostetter, Jr.
United States Bankruptcy Judge

MVBB,Jr/jpm

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
UNITED STATES COURTHOUSE
RICHMOND, VIRGINIA 23219

CHAMBERS OF
BLACKWELL N. SHELLEY
JUDGE

TELEPHONE (804) 649-2263

February 19, 1986

The Honorable John W. Warner
United States Senator
421 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Warner:

Senator Thurmond introduced Senate Bill No. S1923 on December 11, 1985. It provides for a fourth bankruptcy judge for the Eastern District of Virginia. The addition of one additional bankruptcy judge for this district received the recommendation of the Judicial Conference of the United States. The recommendation was forthcoming only after data compilation and intensive review of the statistical information created by the study of the nationwide crisis in bankruptcy filings. The need for an additional judge in the Eastern District is pressing and I encourage the adoption of legislation supporting that need.

There are presently two Bills pending in the House. House Bill No. (4140) introduced by Congressman Fish also authorizes a fourth judge for this District. House Bill No. (4128) introduced by Congressman Rodino, deleted the position from this District and several additional districts and placed them in other districts. The increase in the number of judges is the same in the Rodino bill and the Thurmond bill.

Statistically, the present caseload of the three judge court in the Eastern District of Virginia far exceed the national average for bankruptcy judges. For the twelve-month period ending September 30, 1985 the national average judge caseload for petitions filed was 1,653. The Eastern District of Virginia caseload of petitions filed per judge amounted to 2,282. That last figure has increased to 2,477 in the twelve-month period ending December 30, 1985. The national average caseload per judge for Chapter 11 proceedings in the twelve months ending September 30, 1985 was 97 cases. For the same period the Eastern District of Virginia per judge caseload was 177 Chapter 11 cases.

In the five districts where Congressman Rodino has varied from the recommendation of the Judicial Conference, available statistics reflect an average per judge caseload of 1,560 petitions including 110 Chapter 11 cases. I am perplexed as to why he would exclude the proposed additional judgeship for the Eastern District of Virginia in light of the considerably smaller average caseload in those five districts.

Statistics, however, is not the only criteria that must be considered. In this district in addition to the dramatic increase of filings, we have several cases of national scope involving large corporations with tremendous liabilities and tens of thousands of affected parties including hundreds of financial institutions. Illustrative of these cases are The EPIC case in Alexandria, the A. H. Robins Company, Inc. case in Richmond, and The Landbank Equity Corporation case in Norfolk.

One final statistic which may be endemic nationally, but it is included for your general information is the fact that petitions filed in the Eastern District of Virginia in January of 1986 are 52% greater than the petitions filed in January of 1985. All of the additional judges are desperately needed and I think the Eastern District of Virginia has just cause to believe that the recommendation of the Judicial Conference of the United States as to the placement of one of the additional judges in this district is correct.

I also think that the determination of the number of judges needed should be retained by the Congress rather than delegated to the Judicial Conference of the United States as would be provided by the bill that it may proffer. The 1978 Bankruptcy Act phased out the authority of the Judicial Conference to make that determination by 1984 and the Bankruptcy Amendments and Federal Judgeship Act of 1984 vested that right in the Congress.

In conclusion, I would ask and appreciate your support of Senate Bill S1923 in the form presently proposed by Mr. Thurmond.

I remain,

Respectfully,

Blackwell N. Shelley
United States Bankruptcy Judge

BNS/slm

JUDGE'S CHAMBERS
United States Bankruptcy Court
EASTERN DISTRICT OF VIRGINIA
WALTER E. HOFFMAN U. S. COURT HOUSE
NORFOLK, VIRGINIA 23510

HAL J. BONNEY, JR.
JUDGE

February 20, 1986

The Honorable John W. Warner
United States Senator
421 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Warner:

Relative to Senate Bill 1923 which would authorize an additional bankruptcy judge for the Eastern District of Virginia, may I say that I concur wholeheartedly in the letter under date of February 13 to you from Martin Bostetter, Chief Judge of the U. S. Bankruptcy Court for the Eastern District of Virginia (copy attached).

This is a most serious matter and an additional judge, possibly two, is surely needed.

I would add an additional significant case to those cited by Judge Bostetter. It is Landbank Equity Corporation, the huge second mortgage lender about which so much is heard.

I assure your support of the Bill is sincerely appreciated.

Yours sincerely,

Hal J. Bonney, Jr.
Judge

hw
enclo.

G. WILLIAM WHITEHURST
2d District, Virginia

COMMITTEES:
ARMED SERVICES

SUBCOMMITTEES:
READINESS
Ranking Minority Member

MILITARY INSTALLATIONS AND FACILITIES
MORALE, WELFARE, AND RECREATION PANEL

STANDARDS OF OFFICIAL CONDUCT

U.S. DELEGATE TO
NORTH ATLANTIC ASSEMBLY

Congress of the United States
House of Representatives
Washington, DC 20515

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Virginia Beach, VA 23462
(804) 490-2393
MORLEY J. HOWLE
OFFICE MANAGER

February 27, 1986

Hon. Strom Thurmond, Chairman
Senate Judiciary Committee
218 Senate Russell Building
Washington, DC 20510

Dear Strom:

I write to convey my strong support for your bill, S. 1923, which provides for additional bankruptcy judges in accord with the recommendations of the Judicial Conference of the United States.

Currently, some 2,500 total petitions per judgeship and 172 Chapter 11 petitions per judgeship are pending in the U. S. Bankruptcy Court in the Eastern District of Virginia. Your legislation recognizes this critical situation, and addresses the problem. I have notified House Judiciary Chairman Peter W. Rodino of my position on this matter, and have urged him to support legislation more in line with the Judicial Conference's study, and specifically, a bill which would provide an additional judgeship for the U.S. Bankruptcy Court in the Eastern District of Virginia. Enclosed is a copy of my correspondence to him.

I ask that you work to preserve the current wording of S. 1923 as it moves through committee and floor action. You can be sure of my full support in this regard.

Thank you for your consideration.

With all best regards, I remain

Sincerely,

G. WILLIAM WHITEHURST

GWW/TS

Enclosure

cc: Hon. Hamilton Fish, Jr.
Ranking Minority Member
House Judiciary Committee

G. WILLIAM WHITEHURST
2d District, Virginia

COMMITTEES:
ARMED SERVICES

SUBCOMMITTEES:
READINESS
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MILITARY INSTALLATIONS AND FACILITIES

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STANDARDS OF OFFICIAL CONDUCT

U.S. DELEGATE TO
NORTH ATLANTIC ASSEMBLY

Congress of the United States
House of Representatives
Washington, DC 20515

February 27, 1986

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MORLEY J. HOWLE
Office Manager

Hon. Peter W. Rodino, Jr.
Chairman, House Judiciary Committee
2462 Rayburn House Office Building
Washington, DC 20515

Dear Peter:

I wish to draw your attention to legislation before your Committee, H.R. 4140 and H.R. 4128, concerning the addition of bankruptcy judgeships in a number of districts nationwide.

This legislation is of critical importance to the Eastern District of Virginia, which is currently experiencing a serious bankruptcy case overload. Statistically, the present caseload of this three judge court far exceeds the national average. For the twelve-month period ending September 30, 1985 the national average judge caseload for petitions filed was 1,653. However, the average over the same period in the Eastern District of Virginia amounted to 2,282. That last figure has increased to 2,477 in the twelve-month period ending December 30, 1985. The national average caseload per judge for Chapter 11 proceedings in the twelve months ending September 30, 1985 was 97 cases. For the same period, judges in the Virginia Eastern District averaged 177 Chapter 11 cases each.

Moreover, in our District we have several complex cases of national scope involving large corporations with tremendous liabilities. These cases include hundreds of financial institutions and tens of thousands of affected parties. Illustrative of these are the EPIC case in Alexandria, the A. H. Robins case in Richmond, and the Landbank Equity Corporation case in Norfolk. Finally, the petitions filed in the Eastern District of Virginia in January of 1986 represent a 52% increase over the petitions filed the previous January. In light of these figures, it seems obvious that the recommendation of the Judicial Conference of the United States to add a judge to this district is well founded.

With these facts in mind, I urge you to reconsider your findings and support legislation which would provide an additional judgeship for the U.S. Bankruptcy Court in the Eastern District of Virginia.

Thank you for your consideration.

With all best wishes, I remain

Sincerely,

G. WILLIAM WHITEHURST

GWW/TS

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